THE NATIONAL MARINE SANCTUARY PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS

THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT

AND THE

SUBCOMMITTEE ON OCEANOGRAPHY
AND GREAT LAKES

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

OVERSIGHT OF THE NATIONAL MARINE SANCTUARY PROGRAM AND THE SANCTUARY DESIGNATION PROCESS

JUNE 7, 1990

Serial No. 101-97

Printed for the use of the Committee on Merchant Marine and Fisheries

U.S. GOVERNMENT PRINTING OFFICE

33-007 • • WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

COMMITTEE ON MERCHANT MARINE AND FISHERIES

WALTER B. JONES, North Carolina, *Chairman*

GERRY E. STUDDS, Massachusetts
CARROLL HUBBARD, JR., Kentucky
WILLIAM J. HUGHES, New Jersey
EARL HUTTO, Florida
BILLY TAUZIN, Louisiana
THOMAS M. FOGLIETTA, Pennsylvania
DENNIS M. HERTEL, Michigan
ROY DYSON, Maryland
WILLIAM O. LIPINSKI, Illinois
ROBERT A. BORSKI, Pennsylvania
THOMAS R. CARPER, Delaware
DOUGLAS H. BOSCO, California
ROBIN TALLON, South Carolina
SOLOMON P. ORTIZ, Texas
CHARLES E. BENNETT, Florida
THOMAS J. MANTON, New York
OWEN B. PICKETT, Virginia
JOSEPH E. BRENNAN, Maine
GEORGE J. HOCHBRUECKNER, New York
BOB CLEMENT, Tennessee
STEPHEN J. SOLARZ, New York
FRANK PALLONE, JR., New Jersey
GREG LAUGHLIN, Texas
NITA M. LOWEY, New York
JOLENE UNSOELD, Washington
GENE TAYLOR, Mississippi

ROBERT W. DAVIS, Michigan
DON YOUNG, Alaska
NORMAN F. LENT, New York
NORMAN D. SHUMWAY, California
JACK FIELDS, Texas
CLAUDINE SCHNEIDER, Rhode Island
HERBERT H. BATEMAN, Virginia
JIM SAXTON, New Jersey
JOHN R. MILLER, Washington
HELEN DELICH BENTLEY, Maryland
HOWARD COBLE, North Carolina
CURT WELDON, Pennsylvania
PATRICIA SAIKI, Hawaii
WALLY HERGER, California
JIM BUNNING, Kentucky
JAMES M. INHOFE, Oklahoma
PORTER J. GOSS, Florida
ARTHUR RAVENEL, JR., South Carolina

EDMUND B. WELCH, *Chief Counsel*
BARBARA L. CAVAS, *Chief Clerk*
GEORGE D. PENCE, *Minority Staff Director*
DUNCAN C. SMITH III, *Minority Chief Counsel*

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

THOMAS M. FOGLIETTA, Pennsylvania, *Chairman*

OWEN B. PICKETT, Virginia
FRANK PALLONE, JR., New Jersey
GENE TAYLOR, Mississippi
WALTER B. JONES, North Carolina (Ex Officio)
GERRY E. STUDDS, Massachusetts (Ex Officio)
BILLY TAUZIN, Louisiana (Ex Officio)
DENNIS M. HERTEL, Michigan (Ex Officio)
ROY DYSON, Maryland (Ex Officio)

CLAUDINE SCHNEIDER, Rhode Island
JIM SAXTON, New Jersey
ARTHUR RAVENEL, JR., South Carolina
ROBERT W. DAVIS, Michigan (Ex Officio)
DON YOUNG, Alaska (Ex Officio)
NORMAN F. LENT, New York (Ex Officio)
NORMAN D. SHUMWAY, California (Ex Officio)

PHILLIP W. ROTONDI, *Staff Director*
CHRISTOPHER DOLLASE, *Professional Staff*
PETER MARX, *Minority Professional Staff*

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

GERRY E. STUDDS, Massachusetts, *Chairman*

WILLIAM J. HUGHES, New Jersey
THOMAS R. CARPER, Delaware
DOUGLAS H. BOSCO, California
SOLOMON P. ORTIZ, Texas
THOMAS J. MANTON, New York
ROBIN TALLON, South Carolina
GEORGE J. HOCHBRUECKNER, New York
STEPHEN J. SOLARZ, New York
FRANK PALLONE, JR., New Jersey
JOLENE UNSOELD, Washington
EARL HUTTO, Florida
BILLY TAUZIN, Louisiana
ROY DYSON, Maryland
WALTER B. JONES, North Carolina
(Ex Officio)

DON YOUNG, Alaska
CLAUDINE SCHNEIDER, Rhode Island
HERBERT H. BATEMAN, Virginia
JIM SAXTON, New Jersey
JOHN R. MILLER, Washington
HOWARD COBLE, North Carolina
CURT WELDON, Pennsylvania
PATRICIA SAIKI, Hawaii
WALLY HERGER, California
ROBERT W. DAVIS, Michigan (Ex Officio)

BILL WOODWARD, *Staff Director*
JEFF PIKE, *Senior Professional Staff*
WILL STELLE, *Counsel*
ROD MOORE, *Minority Professional Staff*

SUBCOMMITTEE ON OCEANOGRAPHY AND GREAT LAKES

DENNIS M. HERTEL, Michigan, *Chairman*

ROBERT A. BORSKI, Pennsylvania
BOB CLEMENT, Tennessee
NITA M. LOWEY, New York
GERRY E. STUDDS, Massachusetts
WILLIAM J. HUGHES, New Jersey
CHARLES E. BENNETT, Florida
THOMAS J. MANTON, New York
JOSEPH E. BRENNAN, Maine
GENE TAYLOR, Mississippi
WALTER B. JONES, North Carolina
(Ex Officio)

NORMAN D. SHUMWAY, California
JIM SAXTON, New Jersey
CURT WELDON, Pennsylvania
PATRICIA SAIKI, Hawaii
WALLY HERGER, California
PORTER J. GOSS, Florida
ARTHUR RAVENEL, JR., South Carolina
ROBERT W. DAVIS, Michigan (Ex Officio)

BRIAN O'MALLEY, *Counsel*
RAY O'MALLEY, *Counsel*
JUDY WELLS, *Professional Staff*
LARRY FLICK, *Minority Professional Staff*

CONTENTS

THE NATIONAL MARINE SANCTUARY PROGRAM

THURSDAY, JUNE 7, 1990

U.S. HOUSE OF REPRESENTATIVES, THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, AND THE SUBCOMMITTEE ON OCEANOGRAPHY AND GREAT LAKES, COMMITTEE ON MERCHANT MARINE AND FISHERIES,

Washington, DC.

The subcommittees met, pursuant to call, at 10 a.m., in Room 1334, Longworth House Office Building, Hon. Thomas Foglietta (Chairman of the Subcommittee on Oversight and Investigation) presiding.

Members present: Representatives Foglietta, Studds, Goss, Davis, Hertel, Clement, Miller, Hughes, Taylor, Bateman, Ravenel, Coble, Unsoeld, Pallone, and Schneider.

Staff present: Dan Ashe, Larry Flick, Tom Kitsos, Joan Bondareff, Judy Wells, Rebecca Tepper, Lee Crockett, Chris Dollase, Brook Ball, Lisa Pittman, Phil Rotondi, Peter Marx, Tony Green, Donna Napiewocki, Melanie Barber, Barbara Cavas, Sue Waldron, Rusty Savoie, Will Stelle, and Ed Welch.

OPENING STATEMENT OF HON. THOMAS M. FOGLIETTA, A U.S. REPRESENTATIVE FROM PENNSYLVANIA, AND CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. FOGLIETTA. The joint hearing of the Subcommittees on Oversight and Investigations, Fisheries and Wildlife Conservation and the Environment, and Oceanography and Great Lakes is called to order.

This hearing is on the National Marine Sanctuary Program and in particular, the administration of the sanctuary designation process.

I believe it is fair to say that this Committee long ago reached consensus on the overall value of the National Marine Sanctuary Program. The program's intent is to protect special marine areas and resources. The program allows for the multiple use of marine sanctuaries, but—and I want to emphasize this—recognizes that resource protection is the overriding objective.

Unfortunately, as in 1988, we continue to see evidence of programmatic lassitude. Then, it was noted, that of 29 possible sites identified in 1983, none had been designated.

Now, two years later, I report to you that of those same 29 sites, one has been designated, and its designation was mandated by statute.

Today, we will receive testimony from the program's administering agency, one much affected sister agency, and interested public parties. Our aim is simple: to inject a new vitality into the marine sanctuary management and designation process.

I would like to now recognize for a statement the very distinguished Ranking Member of the Merchant Marine Committee, Congressman Davis.

STATEMENT OF HON. ROBERT W. DAVIS, A U.S. REPRESENTATIVE FROM MICHIGAN

Mr. DAVIS. I appreciate the opportunity to be here today and would like to thank the three subcommittees for the interest they are taking to protect our ocean and marine resources.

We as Congress created this extensive designation process so we must continue to work together to see that all the problems are straightened out. The progress of this program has been slow. I hope today we can look at the problems surrounding the Marine Sanctuaries program and pick up where we left off.

The marine sanctuaries are of major benefit to our Nation and with everyone working together we can create a place for education, research, and enjoyment.

Thank you.

Mr. FOGLIETTA. Thank you very much. I would like to submit the statement of Hon. Dennis Hertel, Chairman of the Subcommittee on Oceanography and Great Lakes. Without objection, so ordered.

[The statement of Mr. Hertel follows:]

STATEMENT OF HON. DENNIS M. HERTEL, A U.S. REPRESENTATIVE FROM MICHIGAN, AND CHAIRMAN, SUBCOMMITTEE ON OCEANOGRAPHY AND GREAT LAKES

Good morning. Today we meet to discuss the status of the National Marine Sanctuaries Program.

The Marine Sanctuary Program has proved an effective way to preserve and restore designated areas of the Nation's oceans and Great Lakes. However, NOAA, as the lead agency with responsibility for implementing the National Marine Sanctuary Program, has had difficulty in meeting schedules for designation, in spite of Congressional mandates requiring designation. Another topic that will be discussed today is that of OCS exploration in marine sanctuaries. This issue has been cited as one of the reasons for the delays in designating certain sites in California and Florida.

I look forward to hearing the comments of the witnesses on these and other issues. I would like to commend my colleague, Mr. Foglietta for holding this oversight hearing.

Evidently our first witness has gone over to vote first so therefore at this time we will recess for 15 minutes for the purpose of voting and report back here at 10:10.

[Recess.]

Mr. FOGLIETTA. The subcommittees will resume order.

Our first witness today is the very distinguished Chairman of the Committee on the Budget from California's 16th congressional district, Congressman Leon Panetta. You may proceed.

STATEMENT OF HON. LEON PANETTA, A U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. PANETTA. Thank you, Mr. Chairman. I appreciate your accommodating my schedule. As you know, I am involved in the summit meetings on the budget and they are continuing almost

throughout every day. So I appreciate your accommodating me at the beginning of this hearing. Also I want to thank you for the opportunity not only to testify but for your Subcommittee's involvement in looking at the whole process of designating national marine sanctuaries.

I believe the National Marine Sanctuary Program is one of our Nation's most successful and important natural resource protection programs. It is absolutely essential that we insure that the process for establishing these sanctuaries remains as the Congress intended, that the process focuses on the substance of these issues and on the process that was developed to insure that these sanctuaries would be designated. That, I think, is the concern that I have.

I think that it is also the concern of the subcommittees has regarding some of the events that have taken place in the last year with regard to the sanctuary process.

Monterey Bay provides a good example for this Committee to focus on. I know there are other examples of sanctuaries that have been designated that have also been similarly delayed. I think it is because of that concern that you are looking at this whole issue. But Monterey Bay is probably a good example for the Committee to focus on as a very unexplainable kind of approach to getting a sanctuary in place. Monterey Bay, for those of you who are not familiar with it, is a very unique bay. It has the deepest underwater canyon in North America. It is three times the size of the Grand Canyon. Obviously, as a result of being the deepest underwater canyon along our coastline, it produces very unique marine life.

We have a bay that is home to 18 endangered species and three threatened species. There are 26 species of marine mammals that inhabit the bay. It has tremendous diversity of marine mammals and fish life. Also as a result of that it is the center of a number of marine research facilities. Not only is the Monterey aquarium, which is world renown now, located along the bay, but we have the Stanford University facilities, the Marine Hopkins Lab, the University of California at Santa Cruz which also has research facilities, not to mention the post-graduate Navy school which also has facilities that look at the bay and the marine life associated with the bay.

The bay is world renown not only in terms of location along the Big Sur Coast, but also just by the very nature of the bay itself in terms of its structure.

It was for that reason that back in 1978, very frankly before we even starting having the battles on offshore drilling, Monterey Bay was first recommended for designation as a sanctuary, by being placed on NOAA's list of active candidates for sanctuary status.

In 1983 NOAA decided to remove it from the active list. The reason cited at that time by NOAA was budgetary reasons. That is not to say there probably was not some legitimacy to that because they were impacted by the cuts that took place early in the 1980's as they have not throughout the 1980's. Nevertheless it was recognized as part of their list and then it was removed.

In 1986, I introduced legislation to basically direct the designation of Monterey Bay as a sanctuary. That was reintroduced in the 100th Congress and included in the reauthorization of the sanctu-

ary programs that this Committee reported out and was ultimately adopted and signed by President Reagan.

The designation at that time was supposed to take place as part of the reauthorization bill. We specifically included language that directed NOAA to designate Monterey Bay as a sanctuary by December 31, 1989. We are now some six months into this year and the Administration has yet to publish even a draft environmental impact statement for the Monterey Bay National Marine Sanctuary.

That same legislation directed the designation of four national marine sanctuaries that were supposed to be designated by June 30, 1990. I think it is fair to say that at this point not one of these sanctuaries will meet the designation deadline. Further, I think a lot of these delays are due not to the substance of whether or not these areas ought to be designated but rather to objections by other departments related pretty specifically to the issue of new oil and gas activities within these national marine sanctuaries.

As you may know, we went through this experience with the Cordell Bank National Marine Sanctuary. The Cordell Bank designation was directed by Congress and the draft environmental impact statement prepared by NOAA recommended a ban on oil and gas activities within most of the sanctuary's borders. The oil and gas ban was rejected at that time by the Administration and NOAA was forced to change its preferred alternative to one which allowed oil and gas activities within the Cordell Bank sanctuary.

As I understand it, we currently have eight national marine sanctuaries. Not one of them, not one of them allows for new oil and gas drilling within the boundaries of the sanctuary. My God by definition sanctuaries are supposed to be sensitive areas, that is why we go through this process. To some how indicate that we ought to allow oil and gas drilling is a contradiction.

I recognize that one existing national marine sanctuary allows for some oil and gas activities in the Santa Barbara channels because there was an existing drill but it does not allow for new drilling. By the very nature of designating these sanctuaries we are recognizing they ought to be protected as sensitive areas. On the Cordell Bank case the Congress agreed because even though the Administration opted to provide for oil and gas drilling, that was disapproved by the Congress and Cordell Bank was protected along with the other sanctuaries.

I hope we don't have to go through that with all the other sanctuaries.

On Monterey Bay, the regulations as they came out of NOAA proposed a ban on oil and gas drilling within the Monterey sanctuary, within the various boundaries that have been suggested. That is one of the issues that is supposed to be decided through the public hearing process, the exact boundaries of the sanctuary. The regulations went to the Office of Management and Budget after, incidentally, I mean my understanding is about the way these regulations are sent that it is done in consultation with other departments, such as Interior and State.

I understand there was a period of consultation involved between NOAA and Interior during the development of the draft regulations. Then the draft regulations went to OMB. Incidentally NOAA

has been very good at coordinating its effort with the local community. I developed a task force at the community level to work with them. They represented every element in the Monterey area not only biologists but the business, fishing, agricultural communities, all of those that would have some interest in the impact of protecting the bay.

Everyone has been magnificent. You will hear testimony from Marc Del Piero, the supervisor in the Monterey area. They have been, the supervisors, have been very helpful. So we have been working together with NOAA to develop this sanctuary.

Then when the regulations go to OMB the brakes are put on because at that time Interior decides, wait a minute, we think we ought to proceed with oil and gas drilling there, we ought not to simply say because it is a sanctuary somehow it is off bounds.

The Department of Energy puts up the same objection. Now we are in a situation where everything has been put on hold. Now I recognize that part of the hold probably relates to the President's statement about offshore drilling which he has yet to make. As you may know, he has established the OCS task force and they have made a recommendation to the White House with regard to three lease sales. Incidentally, those sales don't involve central California. It is northern and southern California, and southwest Florida. But there has been some lock here politically that has tied these two things together.

The two procedures ought not to be related. We ought not to decide whether we are going to drill in a sanctuary because of oil policies that may relate to Florida or northern California. That is crazy to get into that game. The problem I have right now is that we are getting no where. We are getting no where.

These regulations have not seen the light of day. I sent a telegram to the President asking him to please proceed with the regulations on Monterey sanctuary. I did it because the President of the United States, when he campaigned in California and since he has been President of the United States has said we ought to protect the sensitive areas of the coastline. He has made that statement time and time again.

I believe that he is serious when he makes that statement. Well a sanctuary, as I said before, by definition is a sensitive area. If it is by definition a sensitive area there ought to be no problem with allowing us to proceed with recommendations for a ban on oil and gas drilling. This is the beginning of the process.

If Interior does not like those regulations, they can go to the public hearing process just like any one oil company or any other business representative and get their say in the public hearing process.

That is why we developed this process. They have an opportunity to have their views known. Instead of the public comment period happening, everything is on hold now despite the fact that the Congress said designate this by last December. Despite the fact that it is stated in the National Marine Sanctuary Program regulations that NOAA is supposed to act as soon as possible in designating these sanctuaries. So Monterey is a good example of how the politics is screwed up with the offshore oil and gas drilling.

That ought not to be the case in designating these sanctuaries. I hope you will look at this and help move this along. Because I will tell you very frankly, if this thing is not acted on very soon, I will introduce legislation to formally designate the Monterey Bay National Marine Sanctuary with the regulations and boundaries that I think ought to be implemented, period.

After everyone has worked on this thing I will not be in a situation with an intolerable delay in terms of protecting what we think is a very important resource.

Thank you.

Mr. FOGLIETTA. Thank you very much.

[The statement of Mr. Panetta follows:]

PREPARED STATEMENT OF HON. LEON E. PANETTA, A U.S. REPRESENTATIVE FROM CALIFORNIA

Chairman Foglietta and Members of the Committee, thank you for the opportunity to testify before you today on the National Marine Sanctuary Program. I believe the National Marine Sanctuary Program is one of our Nation's most successful and important natural resource protection programs and I commend Chairman Foglietta for calling this hearing on the status of the program.

As many of you know, I have been involved in efforts to designate the Monterey Bay as a national marine sanctuary since I came to Congress 13 years ago. Because of its unique biological, environmental, and economic significance, Monterey Bay was nominated by the State of California for national marine sanctuary status in 1977 and was added to the National Oceanic and Atmospheric Administration's (NOAA) list of active candidates in 1978. However, NOAA announced in December 1983 that it had unilaterally decided to remove Monterey Bay from its active candidates list.

Because the Administration closed the door on attempts to designate Monterey Bay as a national marine sanctuary through the established process, I introduced legislation in the 99th (H.R. 5489) and 100th (H.R. 734) Congresses to mandate the designation of the Monterey Bay National Marine Sanctuary. This legislation was incorporated into the 1988 reauthorization of the Marine Protection, Research and Sanctuaries Act (Public Law 100-627) which mandated that the Monterey Bay National Marine Sanctuary be designated by December 31, 1989. Nearly six months after the designation deadline, the Administration has yet to publish even the *Draft* Environmental Impact Statement (DEIS) for the Monterey Bay National Marine Sanctuary.

Public Law 100-627 also required NOAA to designate four new national marine sanctuaries by June 30, 1990. At this point, it is fair to say that not one of these sanctuaries will meet its designation deadline, and, that furthermore, these delays are in part a direct result of the Administration's refusal to allow a ban on new oil and gas activities in national marine sanctuaries.

These delays can also be attributed to the lack of resources available to NOAA. In recognition of this, I have supported annual efforts to fund the national marine sanctuary program at its fully authorized level. Nevertheless, after many years of experience and frustration with this program, it is clear to me that the basic problem is simply the Administration's refusal to accept the advice of its own lead agency on the regulation of oil and gas activities within a sanctuary's borders.

The original DEIS prepared by NOAA for the Cordell Bank National Marine Sanctuary, contained a ban on oil and gas activities within the sanctuary's borders. The oil and gas ban in the DEIS was rejected by the Administration and NOAA was forced to change its preferred alternative to one which allowed oil and gas activities within the sanctuary. Despite literally thousands of comments received to the contrary, the Administration opted to allow oil and gas activities to be permitted in the vast majority of the sanctuary. Congress, of course, disapproved this term of the sanctuary regulations and passed legislation prohibiting oil and gas activities in the entire sanctuary.

By the time the battle was over, the sanctuary designation was more than seven months behind schedule. The futility of this delay is only compounded by the realization that the entire battle could have been avoided if the Administration had simply allowed NOAA to go ahead with its original regulations which prohibited oil and gas activities in Cordell Bank. Indeed it was frustration caused by the delay of

the Cordell Bank designation which led Representatives Boxer, Pelosi, and myself to introduce legislation (H.R. 2464) in the previous session of this Congress to prohibit oil and gas activities in national marine sanctuaries.

Although I had hoped that the lessons of the Cordell Bank designation, could help us to avoid this type of conflict in the future, we are now facing a similar battle with the Administration over the regulations for the Monterey Bay National Marine Sanctuary. In early February, NOAA submitted the proposed regulations for the Monterey Bay sanctuary to the Office of Management and Budget for approval. The proposed regulations, as is appropriate for a sensitive area like Monterey Bay, contained a prohibition on the exploration, development and production of oil and gas within the sanctuary's boundaries. However, because of objections to the oil and gas ban by the Departments of Interior and Energy, OMB has directed NOAA to re-evaluate the Monterey regulations to accommodate Interior and Energy's concerns. As a matter of policy, I find OMB's failure to support an oil and gas ban for the Monterey sanctuary outrageous. Furthermore, I believe that OMB's actions are circumventing the regulations of the National Environmental Policy Act (NEPA) and are violating the public's role in the designation process. The dialogue which has occurred between NOAA and Interior on the oil and gas ban should be happening in public, during the statutorily mandated comment period after the release of the DEIS, not behind closed Administration doors.

On February 26, 1990, I sent a telegram to the President urging the President to fulfill his stated commitment to the environment by immediately releasing the regulations for the Monterey Bay as originally proposed by NOAA with a prohibition of oil and gas activities in the area listed as NOAA's preferred sanctuary boundaries.

It still is inconceivable to me that such a telegram was even necessary. The President himself has stated on several occasions that he will not permit oil drilling in environmentally sensitive areas. Yet his Administration cannot decide whether or not to prohibit new oil and gas development in a national marine sanctuary which by definition is environmentally sensitive. If Monterey Bay is not sensitive, then what is?

Monterey Bay contains the largest underwater canyon on the North American continental shelf and is actually more than three times the size of the Grand Canyon. The Bay is home to 18 endangered and 3 threatened species. With 26 species of marine mammals inhabiting the Bay, Monterey has the greatest diversity of marine mammals in the world. Many of the Nation's top marine research facilities are located in Monterey Bay precisely for that reason.

More than four months after my telegram to the President, the DEIS and draft regulations for Monterey Bay still have not been released and I have received no indication from OMB that they will be released in the near future, despite the 1989 designation deadline contained in the 1988 amendments to the MPRSA.

I would like to address the concerns that have been raised regarding the manageability of the proposed boundaries for the Monterey Bay sanctuary. NOAA's preferred boundary for the Monterey sanctuary (2,200 square miles) would make Monterey Bay the largest sanctuary in the program. While I recognize that this is a large area, it is my understanding that these boundaries are necessary to ensure the significant resources of the Bay's ecosystem are included in the sanctuary.

The northern boundary of the proposed sanctuary was established to include both Ano Nuevo Island, which is the most important breeding area for several species of marine mammals in northern and central California, as well as the northern boundary of the threatened southern sea otter's range. Likewise, the southern boundary was drawn to include the southern portion of the Monterey canyon and the sensitive pristine fishing grounds off Big Sur.

Furthermore, it should be noted that a smaller sanctuary is not necessarily easier to manage than a larger one. In order to provide for effective management of the sanctuary, boundaries must include all of the ecosystem the sanctuary was established to protect. If relevant areas are left out of the boundaries, NOAA loses its ability to control the sanctuary's significant resources.

Spokesmen for the Department of Interior have suggested in news reports that the boundary lines of the Monterey Bay sanctuary be drawn in such a way that potential oil and gas drilling sites would be outside the designation area. This is ludicrous. The first priority of the National Marine Sanctuary Program is to protect our Nation's sensitive marine resources, not promote offshore oil and gas development.

In the 1988 reauthorization of the MPRSA, Congress reaffirmed its intention that, while the National Marine Sanctuary Program was designed to allow for multiple use of marine sanctuaries, resource protection is the program's overriding objective. To permit oil and gas considerations to be the foremost concern when drawing sanc-

tuary boundaries is to violate the purpose of the entire National Marine Sanctuary Program. Sanctuary boundary lines must be drawn to ensure the preservation of the marine resources the sanctuary was established to protect—period.

Based on my long-time experience with the National Marine Sanctuary Program, and particularly with the Monterey Bay designation, I firmly believe that legislation, similar to H.R. 2464, to prohibit new, non-existing oil and gas activities in marine sanctuaries is desperately needed to ensure the integrity of the National Marine Sanctuary Program.

While I can understand why it may be appropriate to allow existing oil and gas activities to continue in a new national marine sanctuary, I see no reason why the Administration, in keeping with the purposes and policies of the MPRSA, would be justified in promulgating regulations which permit never before existing oil and gas activities to be conducted within a national marine sanctuary.

I urge the Members of this Committee to preserve the integrity and purpose of this program by lending their support for such an amendment to the MPRSA. Once again, Mr. Chairman and Members of the Committee, thank you for holding this hearing and for the opportunity to appear before you today. I look forward to working with you all on this important program in the future.

Mr. FOGLIETTA. Do you believe the provision that permits citizens' suits when a designation deadline is not met be added to the sanctuary program to expedite the process?

Mr. PANETTA. Well, it would be a hell of a case. The fact is that the language in the legislation enacted by Congress said they had to designate this by December 31, 1989. It said it mandated that Monterey Bay National Marine Sanctuary be designated by December 31, 1989. That is Public Law 100-627. If you look at the regulations that involve the procedure under NOAA for designating sanctuaries, I think it is section 922 of the programs regulations law, Subsection E, the drafting management plan and EIS shall be prepared as quickly as possible to allow for maximum public input. I would take that case. It is a pretty good case to argue.

Mr. FOGLIETTA. You mentioned some segments of the community who have been supportive of this program. Are any of the segments of the community opposed to this designation as a sanctuary?

Mr. PANETTA. The great thing about the community is that every segment of the community supports this designation. We have had no opposition to this designation within any community that borders on the Monterey Bay. The only ones that have had some concern are communities outside of the Monterey Bay coastline who are thinking of dumping their sewage in Monterey Bay.

One of the reasons we want to designate it as a sanctuary is to protect the quality of water. We are not telling them not to dump their sewage but, if they are thinking about it, it had better be tertiary treated and cleaned up. The communities and counties that border Monterey Bay all strongly support this. It is the Chamber of Commerce, the business community, every group has said this is something we want to see accomplished.

Mr. FOGLIETTA. Thank you.

I would like to recognize the distinguished gentleman from Virginia, Mr. Bateman.

Mr. BATEMAN. I have no questions.

Mr. FOGLIETTA. I would like to recognize the distinguished Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Congressman Studds.

Mr. STUDDS. I have a lot of questions for the gentleman but they would have nothing whatsoever to do with Monterey Bay. I know what you are talking about, we have a site in our area that was

designated for study seven years ago and we have the same kind of questions. It is nice to see your relative example.

Mr. FOGLIETTA. Mr. Miller.

Mr. MILLER. Congressman Panetta, you were eloquent in your testimony. I can understand your frustration. I apologize for coming in in the middle of your testimony. The impression I got is that the problem here is not one of money proportions, right?

Mr. PANETTA. No.

Mr. MILLER. The problem is a hang up at OMB.

Mr. PANETTA. OMB, Interior, and Energy. NOAA has basically gone through the process and made the recommendation. It is just that the other departments have now indicated their objections.

Mr. MILLER. This is a question for staff. In our packet we have a list, one sheet from the end, that has the chronology for designation of national marine sanctuaries. It lists all the ones on the evaluation list including the one that Congressman Studds referred to, one near where you live, Monterey. This list that explains when these are all going to become final, who is the author of this chart?

STAFF RESPONSE. This is from NOAA.

Mr. MILLER. So this is their estimate for when these things will be completed. Can we get a copy of this sheet to Mr. Panetta? Because it looks like yours and Norfolk, Virginia are a little different. The others all have dates that end with designation and your don't have dates, do you see that? They just have——

Mr. PANETTA. Blanks.

Mr. MILLER. I am just trying to understand this. Apparently, NOAA is recognizing that when it comes to Norfolk and Monterey they cannot project dates for designation.

Mr. PANETTA. In talking with NOAA, we had to prepare the community for the public hearings on the draft EIS. NOAA at that time, I mean we had projected hearings beginning in late spring. Then we had a second group of hearing where we were going to try to project maybe for September. Now they are saying it may not even be until late this year.

Very frankly, it has created a lot of consternation in the community which has been geared up to testify on the regulations. Again, the process on the regulations is to allow the public to have their input on those.

It is not to kind of lock it in stone. The purpose is to let people comment on what NOAA's best recommendation would be. The public wants some input on this now. There is just no reason to delay the issuance of these regulations now. There really is not.

Mr. MILLER. Thank you.

Mr. FOGLIETTA. The distinguished Chairman of the Subcommittee on Oceanography and Great Lakes, Mr. Hertel.

Mr. HERTEL. No questions, thank you.

Mr. FOGLIETTA. Mr. Goss.

Mr. Goss. Did you get an answer to your telegram?

Mr. PANETTA. We got an acknowledgment, it is like "thank you for writing." We will look at this issue but we have gotten no response to the issue. In honesty, I must indicate that I did express these concerns to the President directly when he asked for a delegation of people to come down to talk about OCS. The President at that time indicated he was still committed to protecting the sensi-

tive areas of the coastline and recognized that a sanctuary is by nature a sensitive area so I am hopeful we can get this moving.

Mr. Goss. He has made the same comments to me so I believe there is hope.

Mr. FOGLIETTA. Mr. Taylor. Mr. Ravenel.

Mr. RAVENEL. Mr. Panetta, I am totally supportive. You are a long, long way from me in South Carolina. I read the marvelous article on Monterey Bay and a recent article in National Geographic. It was just great. Who is the culprit is all this, I mean if you are looking for somebody to harass, what is the basis of your problem?

Mr. PANETTA. Let me give you my view, whether it is supported by the fact or not, I hope the Committee is able to determine it. I think what you have here is a knee jerk reaction by MMS as well as Energy that suddenly decided oh my God there is a sanctuary procedure and they are prohibiting drilling.

Our job is develop every possible lease sale and therefore we are going to raise an objection on this. I think that is frankly what happened. I think it was a knee jerk reaction. That is exactly what happened on the Cordell Bank issue. On that issue I could not believe that after NOAA recommended no oil and gas drilling suddenly Interior came back and said we want to have oil and gas drilling there and they changed NOAA's recommendation and the Congress had to come back and restore the original NOAA recommendations.

I had to assume the same process was involved here. I hope that is not the case but I suspect that is what happened.

Mr. RAVENEL. What can we do, sir, to help you?

Mr. PANETTA. Kick them in the ass, if you will. I would like to get this thing moving. I don't think it serves Interior and/or the Energy Department's goals. I respect that they have a job to do but when you have a marine sanctuary that is something the Congress and the country decided to set aside, when they try to fight the battles in the sanctuary, it undercuts their ability to fight the battle where they can possibly drill.

It just points out how baseless their approach is. If they want to focus on things, focus on things outside the sanctuary where they have a better chance of developing it but not in the sanctuary.

Mr. RAVENEL. How do you suggest we kick them in the posterior?

Mr. PANETTA. I hope you will get their testimony and maybe they will have an answer for you.

Mr. FOGLIETTA. Thank you.

If there are no further questions, I thank the gentleman, the distinguished Chairman of the Budget Committee, for being here today and providing us with a very helpful statement. I wish you well over at the summit. I am sure you will be protecting well the interests of the people of America.

Mr. PANETTA. Thank you.

Mr. FOGLIETTA. Next we have a panel which will be composed of Mr. Timothy Keeney, Director of the Office of Ocean and Coastal Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce and Mr. Ed Cassidy, Deputy Director, Minerals Management Service, U.S. Department of Interior.

Because of time constraints, I will have to insist that witnesses limit their remarks to five minutes. Your prepared statements will be entered into the record in their entirety.

You have a light in front of you. When the green light goes off and the yellow light comes on, you have one minute. Please begin wrapping up at that point. When the red light comes on, your time is up and we will proceed to the next witness or to questions.

Mr. Keeney, we will begin with you. Please proceed.

STATEMENTS OF TIMOTHY R.E. KEENEY, DIRECTOR, OFFICE OF OCEAN AND COASTAL MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE AND ED CASSIDY, DEPUTY DIRECTOR, MINERALS MANAGEMENT SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. KEENEY. Mr. Chairman, I am pleased to be here today to discuss the progress the National Oceanic and Atmospheric Administration (NOAA) is making in the designation of new national marine sanctuaries.

The Administration supports the National Marine Sanctuary Program. While the process of designating new sanctuaries is taking longer than expected, we believe we are making significant progress.

With your permission, Mr. Chairman, I would like to submit the full text of my testimony for the record and limit my statement to outlining a few key elements affecting the pace of sanctuary designations and what NOAA is doing to expedite the process.

Mr. FOGLIETTA. Without objection.

Mr. KEENEY. The 1988 Amendments to title III of the Marine Protection, Research, and Sanctuaries Act (MPRSA), mandated NOAA to designate four new sanctuaries, prepare prospectuses for two new sanctuaries, and conduct studies on four potential sanctuary sites within specific time frames. Although a number of the statutory deadlines have not been met, it has not been through NOAA's lack of will or effort.

Several major factors have affected the pace of the designation process, including hiring and training new staff, working with the more extensive designation process required in the 1984 amendments, dealing with more complex issues such as coastal pollution issues affecting new near shore sites and vessel traffic control, and providing maximum opportunities for public comment in the designation process. Although these factors have increased the complexity of the designation process, NOAA has completed considerable work in a very short period of time and at a more rapid pace than in the past. NOAA has made this progress by making a major commitment to staffing the Marine and Estuarine Management Division (MEMD) of the Office of Ocean and Coastal Resource Management (OCRM), which administers the National Marine Sanctuary Program, as well as the National Estuarine Reserve Research System under section 315 of the Coastal Zone Management Act.

In addition to increasing staff, NOAA is considering other ways to expedite the sanctuary designation process. These include providing on-site liaisons to address local concerns and issues at proposed sites; streamlining the information requirements in the vari-

ous designation documents; standardizing as much as possible of the designation documentation; and coordinating as early as possible in the designation process with affected agencies and groups.

With respect to the issue of sanctuary size, the primary question NOAA asks is: How much area is required to protect adequately the nationally significant resources for which the sanctuary is being designated? NOAA makes this determination based on the nature of the resources it is trying to protect. We essentially have two approaches: One, a smaller, site-specific approach, such as was taken in the one square nautical mile MONITOR National Marine Sanctuary off North Carolina; two, a broader ecosystem approach to management of natural resources, as was taken in the Cordell Bank and Channel Islands.

Recognizing the need to provide wider protection to sites such as the existing 5.3 square nautical mile Looe Key National Marine Sanctuary in the Florida Keys, Congressman Fascell and Senator Graham introduced H.R. 3719 and S. 2247, respectively, to designate the entire Florida reef tract as a unified marine sanctuary. We recently testified in support of H.R. 3719. Such a sanctuary could serve as a model of the core and buffer concept, with strict regulations in core areas, and more limited regulations in the buffer areas.

We believe this core and buffer concept also will help to address the concerns of users of sanctuary resources. Title III of the MPRSA, section 301(b)(5), requires NOAA to facilitate uses of sanctuary resources to the extent compatible with the primary objective of resource protection.

We support the multiple use concept and believe it can work. We will make every effort to sustain compatible uses and avoid unnecessary regulation, especially of those pre-existing at the time of sanctuary designation. However, NOAA will prohibit or control certain types of activity when necessary to protect sanctuary resources.

For instance, fishing, both commercial and recreational, is in most cases a pre-existing use of sanctuary resources. The Sanctuary Program has historically regulated fishing activities only on a very limited basis, usually to prohibit a specific harmful practice such as spearfishing, or fishing with explosives. Such activities are regulated only after consultation with the Fishery Management Councils.

OCS oil and gas development is an ocean-based activity which can be compatible with the protection of sanctuary resources. NOAA bases its regulation of this activity on an objective assessment of the potential harm to the marine ecosystem from these activities.

NOAA believes public input is crucial to the sanctuary designation process. We have expanded the number of scoping meetings required under the National Environmental Policy Act (NEPA), and are providing on-site liaisons for immediate public access. We rely heavily on public and private sector groups to help us identify issues and collect and prepare the documentation needed for sanctuary designation.

Although we believe we have made significant progress in designating new national marine sanctuaries, there is room for improve-

ment. We are currently developing recommendations for the 1992 reauthorization of title III. As part of this effort, we are revising the Program Development Plan to incorporate the directions set forth in the 1984 and 1988 Amendments, and are initiating an outside, objective evaluation of the National Marine Sanctuary Program.

NOAA is proud of the accomplishments of its National Marine Sanctuary Program. We are aware that there have been some deficiencies, but we are working hard to correct them. NOAA is committed to designating and managing the Nation's marine sanctuaries.

Thank you. My staff and I will be happy to answer any questions you have.

[The prepared statement of Mr. Keeney can be found at the end of the hearing.]

Mr. FOGLIETTA. We will hear from Mr. Cassidy and then we will have some questions.

STATEMENT OF ED CASSIDY

Mr. CASSIDY. Thank you, Mr. Chairman and Members of the subcommittees. I am Ed Cassidy, Deputy Director of the Minerals Management Service (MMS), at the U.S. Department of the Interior.

I am pleased to appear before these subcommittees to outline the position of MMS regarding the National Marine Sanctuary Program (NMSP).

Let me begin by underscoring our strong support at the Minerals Management Service for the purposes and policies established by title III of the Marine Protection, Research and Sanctuaries Act (MPRSA). As a Federal agency with decades of working experience in America's marine environment, MMS is keenly aware of the need to protect and manage those areas which objective and reliable science tells us have special national significance.

We believe that marine sanctuary designation is an appropriate means for ensuring public awareness, understanding, appreciation and wise use of such areas.

As you know, Mr. Chairman, MMS is responsible for implementing the congressional mandate embodied in the Outer Continental Shelf Lands Act (OCSLA), for developing the Nation's offshore energy resources in an environmentally responsible fashion. While the primary objectives of the MPRSA and the OCSLA are somewhat different, in our view there need be no chronic or inherent conflict between the implementation of the two statutes.

Our Nation is capable of pursuing environmental protection and domestic energy security with equal vigor, and with equal success. Indeed, that challenge is central to the mission of the Minerals Management Service.

During the past two decades, while working to make our Nation's offshore oil and gas resources available to the American people, MMS has spent more than $500 million conducting environmental studies designed to ensure that exploration and development activities pose no unnecessary risk to sensitive marine resources.

Our job is to assess both environmental risks and resource potential, and to make decisions based on the best available scientific and technical information. From the top of our agency to the bottom, we are pledged not to permit the drilling of any well on the OCS that cannot be drilled safely and with appropriate protections in place for the surrounding environment.

With regard to national marine sanctuaries, this type of balanced approach to resource management was clearly envisioned by the authors of section 301(b)(5) of the MPRSA, which recognizes that one of the purposes of title III is to "facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities."

Achieving that sort of balance is not easy. The National Oceanic and Atmospheric Administration (NOAA), has a difficult, complex, often controversial, and necessarily time consuming task.

The national marine sanctuary designation process, as provided in title III of the MPRSA, calls for the evaluation of proposals to fulfill the purposes of the Act and requires extensive consultation among affected Federal agencies to determine whether an area of the marine environment meets the standards established by Congress for sanctuary designation.

For our part, when we are called upon to participate in the national marine sanctuary designation process, MMS seeks to encourage careful and thorough analysis of how all marine activities, including exploration and development of the Nation's offshore energy resources, may potentially threaten proposed sanctuary resources. Moreover, we have encouraged, and will continue to encourage, the development of appropriate restrictions and/or prohibitions on the entire range of specific resource-threatening activities in order to provide the necessary level of protection to the resources that marine sanctuaries are established to protect.

Mr. Chairman, MMS participates enthusiastically in this process by making available to NOAA information on the oil and gas resource potential of proposed areas, as well as other information necessary for the evaluation of sanctuary-related actions and proposals. Many of our biologists, geologists, petroleum engineers and oceanographers are among the finest in their professions, and we willingly make them available for extensive involvement in the sanctuary designation and development process.

Indeed, under this Administration, I believe our working relationships with NOAA—from the Administrator's office to the field—are better than ever, and improving all the time.

Nevertheless, as these subcommittees well know, we don't always agree with everything NOAA proposes; nor can NOAA be counted on to "rubber stamp" all of MMS's proposals. From time to time, for example, we have had extensive deliberations over stipulations suggested by NOAA to protect marine mammals, seabirds, or species of fish, before we issue offshore drilling permits. Over time, these legitimate differences of professional opinion are worked out, hopefully, to the satisfaction of all concerned.

By the same token, when called upon by OMB, for example, to comment on marine sanctuary proposals, MMS scientists and analysts have registered objections to certain provisions based on their

best professional judgment of the facts and other information available. This process is far from unusual. MMS is often asked by OMB to comment on proposals by other Federal agencies; just as other agencies are often asked to comment on ours.

We welcome the opportunity to receive input from other agencies in the Executive Branch, and we appreciate the effort expended by those agencies to ensure that our programs and policies are based on the best scientific information available and the most informed analysis possible. We are confident that this view is shared by our colleagues throughout the Administration.

At MMS, we look forward to working with the Congress and with NOAA to assist in designating and developing marine sanctuaries in a way that balances responsibly a number of complex factors in order to fulfill the American people's desire both for marine preservation, and for energy security—today, tomorrow, and for years to come.

That concludes my prepared statement. I will be happy to answer any questions the Members of the subcommittees may have.

Mr. FOGLIETTA. Thank you, Mr. Cassidy.

Mr. Studds has another obligation at 11 a.m. so therefore without objection I will allow him to proceed with his questioning.

Mr. STUDDS. Thank you, Mr. Chairman.

That was unsolicited and very much appreciated.

Mr. Keeney, it won't surprise you that I want to ask about Stellwagon Bay. Am I hallucinating or is it true that the Administration acknowledges the existence of this program and intends to proceed with it?

Mr. KEENEY. I appreciate that.

Mr. STUDDS. That is a change. Our whole activity in the last eight years was to try to keep it alive. With respect to Stellwagon, and I hope the Members will bear with me because these questions bear on my district but all the specifics deal with the process. Can you assure us? We have not seen the draft yet because it is obviously not made public, but I assume that you are working on it.

Can you assure us you will not see any need for fisheries above and beyond that of regional management councils?

Mr. KEENEY. What we usually try to do in this process is to work with the local regional fishing management council to propose regulations. In the case of the Stellwagon, we will be working closely with the New England Fisheries Management Council.

Our objective will be to enforce existing regulations, certainly not duplicate what is on the books.

Mr. STUDDS. I appreciate that. In the case of Stellwagon the perspective is due in 45 legislative days. Supposing we uncharacteristically keep to our schedule and adjourn before that time has expired. Does that leave us in limbo and do we have to start again in the next Congress?

Mr. KEENEY. I believe we have to start again in the new Congress.

Mr. STUDDS The clock would begin re-ticking.

Mr. KEENEY. Correct.

Mr. STUDDS. In the case of Stellwagon there is anticipated an outfall with respect to the huge projects with regard to Boston sewers. Initially for four or five years it will be only primary treatment.

As you know, I am sure, that has raised some concern in the area as to the possible effect of that on the banks and its resources. What happens a few years down the road assuming you have designated the area and assuming the Massachusetts authorities multibillion dollar project is in full swing and then we have a threat to the resources of the bank?

Under your program is there anything that could be done either to be alert to, watch for, or monitor or respond to such a potential problem?

Mr. KEENEY. Yes, Mr. Chairman, the Secretary of Commerce under title III of the MPRSA, has authority to draft regulations to prohibit the deposit or discharge of materials or other matter from beyond the barriers of the sanctuary to subsequently enter the sanctuary.

Mr. STUDDS. He has the authority to do that?

Mr. KEENEY. Yes, he can draft regulations that prohibit the discharge of materials that may injure sanctuary resources.

Mr. STUDDS. I doubt you will prohibit the Boston sewer system from operating.

Mr. KEENEY. That is correct. Notwithstanding that authority, the Secretary cannot terminate any existing leases, permits, or rights. However, he can regulate the exercise of the existing leases consistent with the purposes within the sanctuary.

Mr. STUDDS. What does that mean?

Mr. KEENEY. One of problems here is that you need to show cause and effect in relation to discharges outside of the sanctuary.

Mr. STUDDS. At the very least, can you assure us that given the proximity of potentially harmful material the program would solve monitoring of the resources to see whether or not there was damage?

Mr. KEENEY. That is correct, it will certainly do that.

Mr. STUDDS. There has been interest over time in sand and gravel mining in the Bay. Would your proposal prohibit that so we don't have to worry about that for the rest of time?

Mr. KEENEY. We are still at the preliminary stage with regard to the EIS. We have not reached that issue yet.

Mr. STUDDS. You have not reached the issue of sand and gravel mining?

Mr. KEENEY. No.

Mr. STUDDS. I hope you will.

Mr. KEENEY. We expect it this September.

Mr. STUDDS. EPA has pending a draft EIS on the dredge disposal sites in the vicinity of the bank. How, if at all, would this designation affect that?

Mr. KEENEY. That certainly is an issue of great controversy right now. I might add that we have just recently hired, as part of our staff, someone from the Corps of Engineers who is quite familiar with dredged materials. We are working with EPA and the Corps on that issue.

Mr. STUDDS. I notice from the map that the designated area includes only about roughly half of Stellwagon on Basin adjoining

the bank. Is there a reason for including a portion rather than all of the area in your study area?

Mr. KEENEY. I will have to get back to you for the record.

Mr. STUDDS. Thank you, Mr. Chairman.

Mr. FOGLIETTA. I thank the gentleman.

Mr. Bateman.

Mr. Taylor.

Mr. Ravenel.

Mr. RAVENEL. Thank you, Mr. Chairman.

Getting back to Monterey Bay, Mr. Keeney, what specifically is holding up that designation? If you had to put your finger on the reason, what would it be?

Mr. KEENEY. There are lots of issues that have been raised concerning Monterey Bay. We have been working very closely with the Department of the Interior on the review of our preliminary draft environmental impact statement. I think one of the great concerns has been the possibility of somehow preempting the President's policy on oil and gas prior to his announcing what that policy is. As you know, Monterey Bay is quite a large area that we are proposing; our preferred alternative is 2,200 square miles which includes potentially rich deposits of oil and gas.

There is reason to believe that there is a direct relationship here between any possible prohibition of oil and gas activity in that area and the President's policy on oil and gas activities on the outer continental shelf.

Mr. FOGLIETTA. Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman.

I too want to thank the panel. I wonder if you can tell me whether all the eight sanctuaries have managers?

Mr. KEENEY. Seven of the eight sanctuaries have managers with the exception of Cordell Bank, which does not have a manager.

Mr. HUGHES. Is that because we have not filled that vacancy?

Mr. KEENEY. Right. It is strictly a matter of priorities in our office and the ability to do the work that we have in the office. That is just one element that is on our objective list but we have not gotten to it yet.

Mr. HUGHES. Do we have sufficient moneys to manage the sanctuaries in existence?

Mr. KEENEY. Yes, we do have sufficient moneys to do the job.

Mr. HUGHES. What is the $3.3?

Mr. KEENEY. The $3.3 million in the fiscal year 1990 budget.

Mr. HUGHES. Is the Florida Coast the largest of the sanctuaries?

Mr. KEENEY. The Florida Keys. We currently have two sanctuaries in the Florida Keys: Key Largo, which I think is 100 square nautical miles; and Looe Key, which is about 5.3 square nautical miles.

Mr. HUGHES. Is there a limit to the size of sanctuaries we can reasonably expect to manage efficiently?

Mr. KEENEY. There is no limit to the size of the largest sanctuaries. Channel Islands National Sanctuary is 1,252 square nautical miles.

Mr. HUGHES. Let me switch to another subject.

Is oil and gas exploration compatible with sanctuary use?

Mr. KEENEY. As I said in my testimony, we believe it can be compatible. It depends on the resources, and depending on the risks that we are talking about, we think it can be compatible.

Mr. HUGHES. If we were to express a blanket prohibition, would that deny sanctuary designation for the potential location?

Mr. KEENEY. I am not sure that it would——

Mr. HUGHES. In other words, as a blanket prohibition, we do not want oil and gas exploration in sanctuary areas, would that encouragement deny the sanctuaries?

Mr. KEENEY. It possibly could.

Mr. HUGHES. Can you give me any specifics?

Mr. KEENEY. There might be a particular area where the Administration doesn't believe such a blanket denial is appropriate, and it is an area of great national interest, and, therefore, in the balance of things, decisions may be made to forego the designation process.

Mr. HUGHES. Do you have any potential sites in mind when you make that statement?

Mr. KEENEY. I really don't because it is just that we work on a site-by-site basis.

Mr. HUGHES. Can you conceive of situations where such a prohibition would make—it incompatible with designation and use as a sanctuary?

Mr. KEENEY. As I recall, in the Cordell Bank Sanctuary designation process we went through last year, we proposed there be a core area that prevented gas and oil, but proposed in the buffer area that there could be possible activity in the future. Again, that is an example of where we felt there was a compatibility.

Mr. HUGHES. Yes, sir.

Mr. CASSIDY. Congressman Hughes, it would be our view in the Department of the Interior that in the best of all worlds those two objectives would not be mutually exclusive. For instance, in the core area of unique biological significance, we would support an absolute ban on offshore drilling and in some surrounding area we might propose to permit offshore activities with strict stipulations designed to mitigate, if you will, any potential harmful effects associated with that drilling and perhaps beyond there permit drilling without such stringent restrictions, but again, with some appropriate safeguards—in other words, a phased approach, if you will. It works outward from that area of greatest ecological significance and attempts to permit both activities to go forward consistent with the intent of the original authors of the legislation.

Mr. HUGHES. Would the department also consider the possibility of opening that area up for on site stratigraphic drilling so that you don't put a leasehold beyond your control before you determine whether or not the quantities that might be exploited are sufficient to put the sanctuary at risk?

Mr. CASSIDY. If I understand the question——

Mr. HUGHES. In other words, would the department, which has basically always been opposed to on site stratigraphic drillings, be willing to permit companies to sink a test hole or holes to determine what quantities of hydrocarbons exist, before departing with a leasehold interest which puts in motion certain steps. Once you lease, then generally speaking if companies determine that there is commercially extractable quantities of oil, it is beyond the Interior

Department's control to prevent it from being exploited, before knowing what quantities exist there.

Would the Interior Department change its policies relative to on site stratigraphic drilling before leasehold?

Mr. CASSIDY. Congressman, it is our view even prior to stratigraphic drilling we possess an enormous amount of geological and physical data.

Mr. HUGHES. You never know until you drill the holes.

Mr. CASSIDY. That is true. At the present time it is our view that MMS should not be in the business of drilling exploration holes.

Mr. HUGHES. I didn't say that. I said give the right to companies before you actually lease.

Mr. CASSIDY. It is certainly an option we would review, but it isn't clear to us the companies themselves have an interest in going out and investing the kinds of sums of money that are required to sink these.

Mr. HUGHES. I disagree with that. I think if you offer that, if one company is interested, you are going to find a lot of companies interested. I realize it is a matter of debate, but I have talked with enough companies to know the fact that if the opportunity to sink stratigraphic wells and promising sites is available, you are going to find a lot of interest.

In any event—your answer is you don't know, you are not sure what the position of Interior would be?

Mr. CASSIDY. My answer, Congressman, is that we would be willing to take a look at that issue, but we don't have a current proposal. We don't have any assurance from NOAA or EPA or the affected states they would be willing to permit any drilling of any type in these areas that would be of ecological significance.

Mr. HUGHES. I am not sure I would be willing to do that either. Thank you.

Thank you, Mr. Chairman.

Mr. FOGLIETTA. Mr. Goss.

Mr. Goss. Thank you, Mr. Chairman.

I have one question, Mr. Cassidy, I think it primarily goes to your testimony and it is basically around this premise: I think there is inherent conflict in what you are trying to accomplish, in what the MMS program is trying to accomplish.

When you read the purposes of national marine sanctuaries; to restore those areas, conservation, historical, education or esthetic value, you don't get into much oil and gas exploration or usage or hauling or marine transport or anything like that.

It appears to me there is an inherent conflict and the problem lies in we do not have a conflict resolution forum set up. As far as I know, it is sort of a political grab bag now which means we get to argue about who is going to make the decision. Is it going to be one of the line agencies, is it going to be somebody in the White House, or is it going to be on the Hill, an act of Congress that will or will not be adhered to.

It appears to me that is the area we should do something. On that assumption, do you have any comment?

Mr. CASSIDY. Congressman, we are concerned as well about the difficulty that has been encountered in recent years in the area of conflict resolution and we are constantly looking for ways to pro-

vide states and coastal communities with a more meaningful role in the decisionmaking process. But if I could back up to the first part of your question for a moment, it is true the Marine Sanctuaries Act lays out a number of purposes, but it is equally true the act envisioned the possibility and in fact laid out a goal of protecting those resources, engaging in a list of activities that you describe and doing so to the greatest degree possible in a way that would permit other uses, historic and proposed, whether it is fishing, tanker traffic, offshore oil drilling and the like.

And so from our standpoint as a department, we have been as you know, very supportive of marine sanctuaries programs in general. We have been in support of specific marine sanctuary designations. We have done so because we believe those resources are worthy of protection, but at the same time, we have argued and encouraged NOAA to take into consideration a number of other activities that occur in these areas that may pose equal or, in fact, greater risks to the resources that you are trying to protect and to provide in these sanctuary designations restrictions or prohibitions on those kinds of activities in order to provide the appropriate level of protection. And so it is—if the principle that drives the marine sanctuaries program is in fact to protect sensitive areas, in our view it is incumbent upon NOAA and other Federally funded agencies to ensure that all other activities that might have an affect be fully evaluated and that appropriate restrictions be put into place.

Mr. Goss. I don't think I have a problem with that. My question goes to how do you do it? We apparently have not carved out a way, assuming its controversy, I don't suggest anybody is trying to use the sanctuary program to put all offshore drilling our of reach of the oil industry.

There may be some that feel that way, but I don't think really that is what this is about, anymore than I feel we should go ahead and automatically say all sanctuaries are suitable for oil exploration and drilling and tanker traffic.

I would say the Keys is a great place we ought to get oil tankers out of, but we don't appear to have a process to resolve these conflicts, and it is apparently not working between the line agencies which raises the question, should we therefore introduce some legislation?

Mr. KEENEY. Congressman Goss, under the current system we use, based on Executive Order 12291, executive branch agencies run regulations by the Office of Management and Budget, for interagency review. In this particular case, we not only gave OMB the draft regulations that we are proposing, but we also gave them a copy of the preliminary draft environmental impact statement to await their review of those regulations. OMB acts as a facilitator, brings in agencies with particular interests, and I think in this case, the Department of the Interior and the Department of Commerce, have worked together with the assistance of OMB to provide a better document with regard to the preliminary draft environmental impact statement.

We have made improvements, I think, but of course there is always a delay—it is a matter of time, how valuable is time. We have a document that can be improved, but we also have a time period within which we have to operate.

Mr. Goss. I am glad to hear your opinion and, Mr. Chairman, my final comment would be I think the frustration Chairman Panetta showed here indicated the system isn't working as well as you think it is, and the frustration is currently building. Thank you.

Mr. FOGLIETTA. Thank you. gentlemen.

Mr. Clement.

Mr. CLEMENT. I have no questions.

Mr. FOGLIETTA. Our ranking Member, Ms. Schneider.

Ms. SCHNEIDER. Thank you very much, Mr. Chairman. My apologies for arriving late and, unfortunately, having to leave early. I do have a question, Mr. Keeney, if you can share with me if there have ever been any penalties that have been assessed for violations, specifically within the sanctuaries?

Mr. KEENEY. Maybe I could call on the representative of our general counsel's office to answer that. Ms. Stephanie Campbell.

Ms. CAMPBELL. That happens all the time.

Ms. SCHNEIDER. I can't hear.

Ms. CAMPBELL. This happens all the time, in all our sanctuaries.

Ms. SCHNEIDER. Maybe you should sit down.

Ms. CAMPBELL. The statute provides for civil penalties to a maximum of $50,000 each day, and each day can constitute a continuing violation. We have a civil penalty schedule. Our enforcement lawyers are in charge of that.

Ms. SCHNEIDER. And where do those funds go from the penalties?

Ms. CAMPBELL. The funds go into an enforcement account.

Ms. SCHNEIDER. I see.

Ms. CAMPBELL. For management of the sanctuaries.

Ms. SCHNEIDER. Usually these are levied on what types of violations?

Ms. CAMPBELL. We have generally prohibitions against alteration of the seabed, discharges. We always have a prohibition against discharges or deposits of any kind of material other than, for example, cooling water incidental to vessel usage, that kind of thing.

Ms. SCHNEIDER. OK. How about something—I know much of the discussion has focused on minerals. How about animals, and wearing a different hat for a moment, we are looking at a situation where manatees are being destroyed at an unprecedented rate, from what I understand, oftentimes by speedboats going through marine sanctuaries and just running them over haphazardly.

Are there any penalties or fees that are being levied for destruction of animal life?

Ms. CAMPBELL. It varies with the sanctuary. If certain kinds of fauna were deemed sanctuary resources at the time of designation, there are regulations to protect them. We rely heavily on the Marine Mammal Protection Act and Endangered Species Act.

Ms. SCHNEIDER. All right. And this would be monitored and then levies executed as a result of that kind of thing?

Ms. CAMPBELL. Right.

Ms. SCHNEIDER. The gentleman behind you is shaking his head.

Ms. CAMPBELL. There is an opportunity for a hearing. We have a notice of violation and assessment process, which is done in the field.

Ms. SCHNEIDER. OK. Are you aware of any violations of manatees going punished?

Ms. CAMPBELL. We will have to get back to you for the record on that.

Ms. SCHNEIDER. OK. I would be very interested in learning about that.

I don't have any other questions, Mr. Chairman. Thank you very much.

Mr. FOGLIETTA. The gentlelady from the State of Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman.

Mr. Keeney, NOAA has delayed designation of the Monterey Bay site, and apparently is not going to meet the June 30th designation for the outer Washington coast side. When will these sanctuaries be designated, and what are the reasons, and what role has MMS played in the delays, naturally we in Washington are very eager.

Mr. KEENEY. Yes, ma'am, you asked about two sanctuaries, Monterey and the western coast of Washington.

Mrs. UNSOELD. I just granted there has been a delay designated on the Monterey Bay site.

Mr. KEENEY. Well, with regard to the western coast of Washington, we are currently on schedule.

Mrs. UNSOELD. Does that mean you will have designation by June 30th?

Mr. KEENEY. No, ma'am. I must say that we have 36 different steps in the designation process, some of which we control, many of which we do not control, and everyone always wants to know, when it is going to be designated. We can't answer that question. We can only answer the question of when will you have completed the preliminary draft environmental impact statement. We can answer that and we can answer that with pretty good precision, but----

Mrs. UNSOELD. I am listening.

Mr. KEENEY. Currently our estimate is that the Western Washington National Marine Sanctuary should be designated by February 1991 in light of the review process that we are dealing with.

Mrs. UNSOELD. The second part of that question was what are the reasons and what role has MMS played in the delay?

Mr. KEENEY. With regard to the Minerals Management Service, we have not yet sent to them our preliminary draft environmental impact statement. I think we are getting very close to doing that, but they have not had a role as of yet, except to answer specific technical questions in regard to resources in the area.

Mrs. UNSOELD. You are not really on schedule.

Mr. KEENEY. Well, we think we are on schedule in regard to what we are capable of producing.

Again, I think that the time constraints placed on the process by Congress are unrealistic and I can review with you at a later time the process and show you 36 steps required for the designation process.

Mrs. UNSOELD. I would like both of you to comment on what working relationship NOAA and MMS and the role that is going to be played in drafting the sanctuary documents and influencing the policy decision.

You said MMS has not yet gotten into the process, but what is that relationship going to be?

Mr. KEENEY. Normally what we will do when the preliminary draft environmental impact statement is complete, is to give Minerals Management Service a copy and they will usually report to us within a reasonable amount of time, say six to eight weeks, their comments. I can only speak in regard to the case of Monterey Bay, but in that, for example, they came back with comments that improved the technical information in the— again preliminary draft environmental impact statement.

There was some additional information on oil spill risk analysis we needed to do. There was some additional information we needed to improve regarding distribution of resources within the proposed sanctuary area, also a clear organization of the environmental consequences of certain risks of certain activities.

Again, as I mentioned before, the documents that we prepare— by the way, the draft environmental impact statement in the past has taken usually three to four years to put together. Because of Congressional deadlines we have had really more like 12 to 14 months to complete a document; so that in the review process, needless to say, there are always improvements that can be made, it is a factor of time and factor of quality of document we are dealing with.

Maybe Mr. Cassidy would like to add to that.

Mr. CASSIDY. Mrs. Unsoeld, let me simply indicate to you that during the last year and a half or so, under the current Administration, we believe, as I mentioned in my opening remarks, that working relations between NOAA and MMS are far better than ever before and improving all the time. We welcome the opportunity to come in on proposals such as the marine sanctuary designations that are put forward by NOAA. We have some extraordinarily gifted and talented biologists and oceanographers and others at MMS. We have an enormous amount of information assembled over the years and we can contribute in positive ways.

At the same time it works both ways because very often we call upon NOAA to comment on our proposals and we rely heavily on National Marine Fisheries and others to help us understand what the impacts of our proposals would likely be. Notwithstanding that, there are in fact at times differences. We look to OMB to help resolve those issues.

For the most part, we think it is a healthy exchange. We think, in the long run most of these proposals end up stronger as a result of the technical assistance provided by our sister agencies in the Administration.

Mrs. UNSOELD. I do regret I didn't get to hear all your testimony, but I will read it and catch up.

Mr. Cassidy, while you are here I want to ask you a question regarding lease sale number 132. On February 12, the northwest OCS task force adopted and sent to the Secretary a resolution regarding that sale. Representatives of the governors of Washington, Oregon, and tribal governments and MMS all signed the proposed agreement. It has been nearly four months. When can we expect a decision?

Mr. CASSIDY. Congresswoman, I was fortunate to serve on that task force, and in fact, chaired it. We believe it represented an unprecedented effort on the part of MMS to involve the northwest.

What we recommended to the Secretary for his consideration is that a body of studies be completed. The studies were identified largely by scientists and technical people appointed by the states.

We recommended to the Secretary a body of studies be completed; it will take somewhere in the range of five to six or seven years to analyze. This is dramatic, has potential implications far beyond the northwest itself, and it took many, many months of effort on the part of states and tribes, environmental groups and others, myself and others at MMS to work our way through this very, very difficult dispute. Congressman Goss talked about the need for improved conflict resolution measures; we think this is an important step in that direction. It took us many, many months to get to the point we arrived at in Seaside on February 12. I think it is understandable that a far-reaching proposal of that type needs to undergo very careful and detailed review at the Department before the Secretary makes his decision.

I suspect his decision will be forthcoming shortly.

Mrs. UNSOELD. Is there any reason to suspect he is not going to sign the resolution?

Mr. CASSIDY. Congresswoman Unsoeld——

Mrs. UNSOELD. We are eagerly waiting for a decision.

Mr. CASSIDY. I did walk a fine line, if you will, but it was clear to me, as it was clear to the Secretary and clear to Governors Goldsmith and Gardner with whom we met, that if I was to participate in a truly meaningful way as a member of that task force and I ought to add that no resolutions or proposals of that task force, under the terms of its charter, could go forward to the Secretary for decision without unanimous agreement.

With that kind of ground rule, it was clear to all of us that I couldn't participate meaningfully if before I was to cast my vote in favor, I had to clear it up the chain. I don't think there is a member of the task force who sees everything in that resolution they would like to see, and doesn't see some things they wish weren't in there. It represented our collective judgment about a proposal worthy of the Secretary's consideration and we sent it forward.

I hope you will understand if I don't presume to tell you how the Secretary is going to ultimately decide and we would simply join with you in hoping and expecting we will have a decision in the very near future.

Mrs. UNSOELD. I hope the politics in California are not what is delaying it. As soon as there is any word——

Mr. CASSIDY. No politics in California, no politics in Oregon, no politics in Washington, just good solid science and careful analysis of the long term implications of that approach.

Mrs. UNSOELD. Then we should expect the Secretary's signature?

Mr. CASSIDY. I am hopeful and optimistic.

Mrs. UNSOELD. Thank you. If I could have my opening remarks inserted in the record.

Mr. FOGLIETTA. Without objection.

OPENING STATEMENT OF HON. JOLENE UNSOELD, A U.S. REPRESENTATIVE FROM WASHINGTON

Thank you Mr. Chairman for holding this hearing on the National Marine Sanctuary Program—a program to protect and manage areas of special significance.

Washington has two proposed sanctuaries "somewhere in the pipeline." The first is the Outer Coast, adjacent Olympic national Park, which borders on one of the least developed shores in north America. The second site includes the San Juan Islands in northern Puget Sound which has been proposed because of the area's biological productivity, varied coastal habitats, and diverse species.

It is now apparent that NOAA will not meet the designation dates for these sites established by Congress. Apparently, the Administration's insistence on moving forward with oil development within the sanctuaries is a major reason for delay.

Oil and gas development within the coastal Washington marine sanctuary simply does not make sense. The entire area is considered a frontier sale in the current 5-year leasing program. This means that it is uncertain, at best, for oil and gas exploration. The Washington coast also ranks as one of the most biologically productive and environmentally sensitive areas in the country.

Mr. Chairman, I look forward to hearing from our witnesses this morning. I want to again express my concern with pace of the designation process and offer my assistance in working with you to seek better ways to designate coastal areas of special significance.

Thank you.

Mr. FOGLIETTA. I have some questions. However, in the interest of time, I will submit them for the record.

Thank you, Mr. Cassidy and Mr. Keeney for being very informative.

STATEMENTS OF MARC DEL PIERO, MONTEREY BAY NATIONAL MARINE SANCTUARY STEERING COMMITTEE; JACK SOBEL, DIRECTOR, HABITAT CONSERVATION AND MARINE PROTECTED AREAS PROGRAMS, CENTER FOR MARINE CONSERVATION; AND STEVE CHAMBERLAIN, DIRECTOR, EXPLORATION, AMERICAN PETROLEUM INSTITUTE TESTIFYING ON BEHALF OF API, NATIONAL OCEAN INDUSTRIES ASSOCIATION, WESTERN STATES PETROLEUM ASSOCIATION, AND INTERNATIONAL ASSOCIATION OF DRILLING CONTRACTORS

Mr. FOGLIETTA. I will call our last witness, Jack Sobel, Director of the Habitat Conservation and Marine Protected Areas Program of the Center for Marine Conservation. Next we have a change in our announced schedule. Instead of Mr. James Martin, we have Mr. Steven Chamberlain, Director for Exploration at the American Petroleum Institute. Mr. Chamberlain will be testifying on behalf of API, National Ocean Industries Association, Western States Petroleum Association and the International Association of Drilling Contractors. And finally the Honorable Marc Del Piero, the Monterey Bay California National Marine Sanctuary Steering Committee.

I would like to indicate that Mr. Del Piero, is a native of Spaghetti Hill in Monterey, as is our colleague, Mr. Panetta. Is that correct sir?

Mr. DEL PIERO. The Chairman of the Budget Committee has been talking out of turn, again, Mr. Chairman.

Mr. FOGLIETTA. I thank you, sir.

Let's begin with Mr. Sobel. Let me remind everyone we are asking you to summarize your remarks and full statements which will be entered into the record, and we are proceeding on the five minute rule.

Mr. Sobel.

STATEMENT OF JACK SOBEL

Mr. SOBEL. Mr. Chairman, Members of the Committee, good morning. My name is Jack Sobel and I am the Director of the Center for Marine Conservation's, CMC's, Habitat Conservation and Marine Protected Areas Program. CMC is a non-profit citizen's organization dedicated to the conservation of living marine resources and their habitats. We have a 10-year history of active involvement on issues concerning marine protected areas with an emphasis on the National Marine Sanctuary Program, NMSP. We would like to express our thanks for this opportunity to present our views on the current status and implementation of this program.

The Center remains a strong believer and proponent of the NMSP. Despite frustration with the slow pace of site designations, continuing controversy over oil and gas prohibitions, and inadequate funding levels, we remain convinced that the sanctuary program offers a unique opportunity for providing comprehensive and coordinated management of our Nation's most significant marine habitats.

Over the last 10 years, the rate of new sanctuary designations has slowed to a snail's pace. We believe the problems that have developed during the last 10 years are not the result of an inherently faulty process but rather a lack of commitment on the part of the Administration to protect our marine heritage, and inadequate funding.

The existing designation process provides a good framework for designating sites. This framework allows the flexibility to enable individual site designations to be tailored to the needs of an individual site and also provides for substantial public involvement and input in the process.

The decision to block the release of the Monterey Bay DEIS/MP shows a flagrant disregard by the Administration for Public Law 100-627 which mandated the site designations and is undermining the opportunity for public participation in the designation process and subverting the NEPA provisions normally associated with the development of a sanctuary designation. Furthermore, the delay is having a ripple effect in blocking the designation process on both the Flower Garden Banks and Washington Outer Coast sites.

What can be done to force a reluctant Administration to take its responsibility under the law seriously and designate sanctuary sites in a timely manner? One possibility which we are currently exploring, as our frustration with the delays mounts, is to file a lawsuit to force compliance with the law. Such an approach would be greatly facilitated if strong citizen suit provisions were built into the sanctuary law. Incorporating such provisions into the sanctuary legislation may be a way to ensure Administration compliance with mandated deadlines and timely sanctuary designations.

A second possibility worth considering if feasible is finding a way to limit OMB's involvement in the designation process or remove it from the process completely, but I don't have the answer to how this could be accomplished.

A final possibility would be to pursue direct congressional designation of individual sites. We feel that this is in general a less desirable alternative since it would bypass the normal public process and result in Congress performing a function better suited to Administrative procedures. However, it may be desirable to consider this possibility as a last resort particularly in individual recalcitrant cases.

Some of the sluggishness in site designations can also be attributed to inadequate funding. Despite conservative authorization levels for this program, appropriated funding levels have been only a small fraction of authorization levels. Although last year saw a slight improvement in appropriations for the program, funding remains inadequate to both properly manage existing sites, and to designate new sites. Faced to choose between these tasks, NOAA has understandably placed a priority on existing sites. Fully funding this program at the moderate level of $5.5 million would certainly facilitate the timely designation of new sites.

Resource protection should be the single most important factor in determining sanctuary size. This criterion requires that you also identify the purpose of the sanctuary, the resources to be protected and the threats they are to be protected from. I would emphasize the importance of optimum size for a sanctuary being selected on a case by case basis. As with regulations, the size of a sanctuary should be tailored to the needs of the individual site. For this reason, I don't think maximum sizes should be set for sanctuaries.

In theory, I believe that decisions on whether oil and gas should be considered a compatible use should be made on a case-by-case basis just like other potential uses. I believe this even though I cannot envision a sanctuary in which oil and gas activities could be considered compatible with the purposes of the sanctuary. However, the persisting problems and controversy related to the development of restrictions on oil and gas activities within sanctuaries may justify a generic ban on hydrocarbon activities within all sanctuaries.

When properly implemented, the existing sanctuary designation procedures provide extensive and sufficient opportunities for all interested parties to become involved and have input into the designation process. However, problems have developed where the input is either ignored or preferential treatment is given to a small minority opinion or special interest group. This has frequently been the result with respect to oil and gas issues. Problems have also cropped up where a special advisory/working group is set up and given special input to the process but does not fairly represent all points of view or where people are excluded. Although such groups can be useful and desirable, it is imperative that all interest groups are fairly represented. Extensive delays such as those now being experienced in site designations can also undermine public input and subvert the NEPA process. Finally, despite periodic inputs during the process, many individuals complain of a lack of opportunity to have input or receive information from the NMSP in between these opportunities. Extensive delays in the process exacerbate this problem.

Mr. FOGLIETTA. Thank you, Mr. Sobel. We will hear from each of the witnesses before we go into questions.

[The prepared statement of Mr. Sobel can be found at the end of the hearing.]

STATEMENT OF STEPHEN CHAMBERLAIN

Mr. FOGLIETTA. Mr. Chamberlain.

Mr. CHAMBERLAIN. Good morning. I am Steve Chamberlain, Director of Expiration for the American Petroleum Institute. I appreciate the subcommittee's courtesies in letting me appear today on behalf of Jim Martin. He, unfortunately, had an unavoidable conflict at the last minute.

I am here today on behalf of API, the National Ocean Industries Association, International Association of Drilling Contractors, and the Western States Petroleum Association.

You have asked us to address several specific issues, which I will do, but first let me explain our views in general and move to your specific concerns.

Our four organizations support the concepts and objectives of the Marine Sanctuaries Program.

We agree with the findings and the purposes of the Sanctuaries Act that state certain areas of the marine environment possess qualities which give them special national significance. The sanctuary designation process can help provide comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities. A sanctuary program should, to the extent compatible with the primary objectives of resource protection, facilitate all public and private uses of the resources for the sanctuary areas not prohibited pursuant to other authorities.

Congress and NOAA have established an orderly and rational process which provides for evaluating and designating appropriate sites for marine sanctuaries. This process includes analyzing the impacts of site designations, identifying appropriate regulatory protections for sanctuary resources and insuring that multiple uses of sanctuary areas are compatible with protection of the resources.

Our experience with the marine sanctuary program over the years has been positive.

We believe the program has been guided by the following principles: one, as part of the process of designating each individual sanctuary, NOAA has insured that the impacts of all existing and potential future activities that pose a demonstrated risk to the sanctuary resources are objectively evaluated. The impacts of decisions to restrict or prohibit those activities must be fairly analyzed before any such decisions are made as part of the final sanctuary management program.

In this regard we recognize that in some cases it may be reasonably determined that oil and gas activities, as well as many other activities, should be restricted or prohibited within a sanctuary as incompatible with protection of sanctuary resources. Nonetheless, we strongly believe that the environmental record of offshore oil and gas drilling operations demonstrates that such activity does not necessarily pose an unacceptable risk.

Number two, an effort must be made to distinguish between alleged threats to the specific marine resources under consideration

for protection which are a mere possibility, and those threats for which there is a reasonable expectation of occurrence. Sanctuary status should be reserved for those unique circumstances where other resource protection authorities have been demonstrated to be inadequate.

Third, a high degree of management and protection to specific resources within limited geographic areas should be encouraged. The boundary of a sanctuary should be no larger than necessary for the protection of the identified resources for which the sanctuary is proposed. Consistent with this objective, the size of the sanctuary should not include additional buffer zones.

However, with the wave of concern and emotion following the Prince William Sound oil spill last year, we are very much concerned that OCS leasing opponents are considering changing the character of the Marine Sanctuaries Program. We hope that Congress will recognize the value of the sanctuary site selection and designation process that it created under the Marine Sanctuaries Act. That is the process NOAA now uses.

In recent years, however, Congress has evidenced a willingness to ignore the selection and designation process in its frustration over extensive environmental assessment and evaluation work that has often bogged down the process.

In conclusion, the petroleum industry strongly supports the program and desires to see it implemented in a way that is true to the program's stated purposes and goals. We are eager to work with Congress and the Administration on improving the designation and management of marine sanctuaries.

We appreciate this opportunity to present our views.

Mr. FOGLIETTA. Thank you.

[The prepared statements of Mr. Martin and Mr. Chamberlain can be found at the end of the hearing.]

Mr. FOGLIETTA. Mr. Del Piero.

STATEMENT OF MARC DEL PIERO

Mr. DEL PIERO. Mr. Chairman, let me express my appreciation on behalf of my constituents in Monterey County for the subcommittees holding these hearings today in regards to the designation process.

You have a copy of my written testimony that I would appreciate having—that I would appreciate it being included into the record. I may deviate somewhat from that, Mr. Chairman, if that is okay, and the reason, frankly, I might deviate from it is because there are a number of things that have been raised during the course of discussion today that I think perhaps I might be able to offer some insight into, insofar as I have had the opportunity to participate on the citizens' committee preparing both the draft management plan and the draft EIS that ultimately went to NOAA for the Monterey Bay Sanctuary.

Let me just indicate that from the standpoint of elected officials in regards to environmental resources, I am a very lucky individual. I represent a supervisorial district that encompasses the better part of Monterey Bay, which lies within the boundaries of Monterey County. I also have entirely within the boundary of my su-

pervisorial district Elkhorn Slough Estuarine Research Reserve, designated in 1978, which is in effect the headquarters of Monterey Bay Canyon, which is singly the greatest, most ecologically significant feature of the proposed Monterey Bay Sanctuary.

I have also had the opportunity during the course of the ten years I served on the Board of Supervisors and three years prior to that to participate in the local coastal planning process for Monterey County and its components of the coastal planning process for the State of California.

Let me point out to you in 1976 the state legislature of the State of California had occasion to adopt the California Coastal Act. It mandated all local jurisdictions have in effect, in place, local coastal plans by 1979.

Monterey County, which did as diligent a job as any jurisdiction within the State of California, and much more diligent than most, was successful in implementing its local coastal plan in 1987. And so I would point out to you, sir, first of all the legislative mandates don't always necessarily produce the desired result, not because the mandates are not oftentimes well thought out or deserving of the credit that are due to them, but the fact of the matter is, the bureaucracy doesn't necessarily move as fast as those of us in elected positions would like.

I don't see a significant difference between that and the designation of marine sanctuaries, except that Monterey Bay, as well as a number of other potential sites, were designated, as I recall, in 1978 for potential review. we are now over a decade past, we have experienced three Olympic games since that time, and at this point we still don't have a designation.

It is my sincere belief, however, we are on the verge of a designation. It is my sincere belief those criteria for the designation of the marine sanctuary, of which Monterey Bay meets every criteria outlined in the administrative guidelines, will in fact result in the ultimate designation of Monterey Bay as a marine sanctuary.

Let me point out these things: first of all, NOAA has done a yeoman's job, a remarkable job in cooperating with local governmental officials, representatives of the marine science community, representatives of the Chambers of Commerce, representatives from the fishing industry, representatives from state government, as well as local government.

In participating in the preparation of the information necessary for the draft management plan, the participation by other Federal agencies is not something that has taken place on the local level.

I have to assert to you, Mr. Chairman, I think perhaps the problem with the marine sanctuary program is that we have in the Federal Government, and particularly in the Administration, different officials of the Administration giving different counsel to the President, and it is my opinion that not all of the counsel is the same, necessarily. And so the attribution of responsibility to the Administration for all that is bad or all that is good, in terms of the process, is probably correct at least as it goes to one particular department or another.

It is my sincere belief, frankly, Mr. Chairman, that if the Administration does what it says it has intended to do, if the President does what he has articulated vocally in California and in Washing-

ton in the past, and if the Congress continues the desire to have those sanctuaries designated and participate cooperatively with the Administration, that the sanctuary process will in fact move forward, even though it has been stalled during the course of the last Administration here in Washington.

One last comment, Mr. Chairman. During the course I have been on the Board of Supervisors I have had some interesting constituents. Ansel Adams was one of my constituents; before he died, he supported Monterey Bay being designated as a marine sanctuary. David Packard built the Monterey Bay Aquarium in Monterey and also the Monterey Bay Aquarium Research Center at Moss Landing. He is a good friend and supports the marine sanctuary.

Clint Eastwood, the former mayor of Carmel, who I had lunch with last week, supports Monterey Bay being designated a sanctuary.

And frankly, Mr. Chairman, given the rather diverse political stances taken by all three of those gentlemen, I would submit to you the designation of Monterey Bay, or for that matter all the sanctuaries proposed as sanctuaries, that designation is not a partisan issue, that it is an issue that will determine how great or how weak the Government of the United States will be from this standpoint of history.

Because when we look back on the 1990's, if those designations are in fact made, I think they will be as significant as the designations of the National Parks in the early part of the century. If they are not made, I think it will be a determination at least in the 1990's, the Government collectively was unable to recognize what ultimately is best for the citizenry of this country.

[The prepared statement of Mr. Del Piero can be found at the end of the hearing.]

Mr. FOGLIETTA. I thank you, Supervisor Del Piero.

Mr. Ravenel, any questions?

Mr. RAVENEL. Thank you, Mr. Chairman.

Mr. Del Piero, you sound upbeat and optimistic. Optimistic I think is probably the word. You seem to think that designation is imminent, is that right?

Mr. DEL PIERO. I am of the opinion designation will be forthcoming. I am not happy that the congressionally mandated time frame for the designation of Monterey Bay as a sanctuary by December 1, 1989 has not been met, I am not happy about that.

I am, however, after having been involved in local government for a long time, enough of a realist to recognize, particularly inasmuch as I have participated on the committee that has been responsible for generating the base documents by NOAA in the preparation of the EIS, to know the compilation of that base in environmental information took longer than we anticipated, so if it took longer for the citizens' committee that was doing it, I can understand—I am not happy about it, but I can understand it might take NOAA longer to complete their review process.

Mr. RAVENEL. When designation occurs, because I am pretty sure it will occur, would drilling be permitted in the sanctuary?

Mr. DEL PIERO. Let me just say from the standpoint of Monterey Bay and the proposed Monterey Bay Sanctuary, hydrocarbon extraction is simply an incompatible use, and it was interesting, I

don't recall if it was Mr. Studds or another Member of the Committee, that asked a question in regards to a blanket prohibition on oil extraction in marine sanctuaries. Let me suggest that each marine sanctuary is as different as the individual Members of this Committee.

I mean, everybody sitting up there now happens to be male and have a tie on, but beyond there the similarities pretty much end, and that is substantially the truth in regards to marine sanctuaries. The proposed Monterey Bay sanctuary is substantially different than Santa Barbara; it is substantially different than Cordell Bank; it is substantially different than Key West.

Each one of them has to be evaluated from a scientific level, I think. Clearly from a scientific level to determine whether or not oil extraction is appropriate. I would submit to you that given the authorizing legislation for the marine sanctuary program, that more often than not, oil extraction is not going to be appropriate within the boundaries. I can't conceive of a situation where it would be appropriate, but I am not going to say it is not possible.

What I would suggest, however, is two things: first of all, it needs to be recognized that in regards to the marine—the designation of marine sanctuaries, in my opinion and frankly in the opinion of virtually—not virtually, of every member of the committee that worked on the Monterey Bay Sanctuary, that there is a clear need for a buffer zone; and the reason is because the ocean, fortunately or unfortunately, is not a static body.

I mean, it moves, and the potential for petroleum extraction, or for that matter the potential for petroleum transport in the proximity of marine sanctuaries, needs to be monitored and controls need to be put into effect so that in order to insure the integrity of the marine sanctuary, an area that allows some potential response time in the event a cleanup is necessary has to be designated.

So if you don't have a buffer for those marine sanctuaries, what you have is a situation where you can have a major spill, whether it be from a tanker or blowout from an offshore drilling platform, whether it be an accidental discharge from a major ship.

At least if a buffer zone is designated, and again the buffer will be predicated upon currents and the meteorologic conditions that predominate around the marine sanctuary, if a buffer zone exists it affords the Coast Guard, it affords other agencies that are potentially available for cleanup, the opportunity to put cleanup efforts into place, put them in motion, so as to be able to respond. The integrity of the sanctuary then would not be compromised.

Mr. RAVENEL. Thank you, sir. One additional question. Do you have any suggestion for this Committee how we can hasten the process? Do you think we need to do something positive?

Mr. DEL PIERO. Yes, sir. I was a founding member of a consortium called Central Coast Regional Studies Program. Six counties got together, we have been working on it for five years, it extends from the coast of Sonoma to the southern part of Big Sur. It was made up of county supervisors from six counties; Marin, Monterey, San Francisco, San Mateo, Santa Cruz, and Sonoma.

It has Democrats and Republicans. No one pays much attention to the partisan affiliation of the participants. What we pay atten-

tion to is the need to preserve the resources not only for ourselves but for the generations that will come after us.

And if I can leave one thought with this Committee, that is probably not substantive, but is as heartfelt as I can make it, it would be to attempt to achieve bipartisan consensus so that this marine sanctuary program that clearly is going to be preserving our resources for future generation moves forward in a timely fashion. We have lost a decade. I don't think we have another decade to lose.

Mr. RAVENEL. I am glad to hear what you say about politics in the situation, because I am down here around Charleston, South Carolina. You name all these places and I don't know what you are talking about. When it comes election time it is not what party you are in, they don't care whether you are Republican, Democratic, or Communist, it is how you feel and vote for the environment that counts. That is why you see me here today.

Mr. DEL PIERO. Mr. Congressman, let me suggest in Monterey County, and I am sure the Chairman of the Budget Committee will confirm what I am going to say, that is pretty much the same way it is for people in California.

And let me make another offer to you, sir. In the event you wish to come out and find out just exactly how similar your constituency is to Monterey County's constituency, I would be more than happy to make sure you saw a good time in Monterey and Carmel; and that is also extended to the Chairman of the Committee, if you gentlemen wish to come out and inspect that resource that should be designated as a marine sanctuary.

Mr. FOGLIETTA. I thank you gentlemen.

Any further questions?

I just have two questions of Mr. Chamberlain and Mr. Sobel.

National parks and wildlife refuges, forest and wilderness areas are all established by acts of Congress rather than delegated to an executive agency. Why do you believe, if you do, that the marine sanctuary should be treated any differently?

Mr. SOBEL. I believe that there is one major difference between the vast majority of sites designated in all those cases and marine sanctuaries; and that is marine sanctuaries specifically deal with marine areas, and although there are some national parks that include marine areas, you are talking about a different process. The sanctuary concept is multiple-use, it involves areas that have a lot of traditional use, and those traditional uses have strong constituencies.

There needs to be a lot of thought that goes into developing a proposal that is going to affect those uses, and I think that public input in that process is very important. That public input doesn't always work, necessarily, in the direction that I would like to see designations go, but I think in a democracy it is healthy to have that debate take place and take place publicly.

And that is one of the things that is particularly disturbing about what is going on with the Monterey Bay designation, that the debate is going on behind closed doors and the public is being prevented from being involved.

I guess just to add one further thing, as I said, it is a complicated process, and NOAA does have the scientific expertise and experi-

ence and time to devote to that process, and I think that you can therefore develop a better managed program by doing it through an administrative process than you can by doing it through a congressional process.

I don't think Congress has the time to devote to individual designations of this type.

Mr. FOGLIETTA. I thank the gentleman.

Mr. Chamberlain.

Mr. CHAMBERLAIN. I would agree with everything Mr. Sobel has said regarding the different nature of the program and the purposes for which the program is established. As a different perspective we have often looked at the marine sanctuaries' legislative history and compared that with wilderness status in trying to resolve this dilemma of whether congressional designation or administrative designation by the President with a congressional concurrent resolution of disapproval is the right way to go.

I think our position goes to the question of how big an area are we talking about designating. If we are talking about dozens of marine sanctuaries of enormous size, hundreds of thousands of square miles or acres, we are in to the marine wilderness region and congressional designation and debate should occur when we talk about a program that expanded.

However, under the current statute, regulations and procedures, and particularly when you have county citizens advisory committees and local scientists and experts looking at the individual site designation proposals and evaluating them, that is the way you get to a good balanced decision about these competing uses and what should and should not be allowed.

Our frustration with the Monterey Bay Marine Sanctuary proposal is that we don't know what is going on. We don't know what the boundaries are. We are concerned about the access to two geologic basins in the vicinity of Monterey Bay. We are as anxious as everybody else to find out what is going on and what the scope of the sanctuary size is and the scope of regulation.

Mr. FOGLIETTA. I thank the gentleman.

One last question. Do you support the Administration's site specific policy, that is a ban on the drilling in the environmentally sensitive areas and the concentration of drilling only in areas of high energy potential?

Mr. CHAMBERLAIN. I didn't understand the question.

Mr. FOGLIETTA. Do you support the Administration site specific policy, namely a ban on drilling in environmentally sensitive areas and concentrating on drilling only in areas of high energy potential?

Mr. CHAMBERLAIN. Yes, we supported the Administration's approach with regard to sub-area deletions of OCS lease sale planning areas. It speaks directly to the President's policy you just enunciated. Our concern is how big are these areas, what is sensitive or non-sensitive and what is the extent to which all commercial activities are going to be regulated not just singling out the oil and gas industry for prohibition.

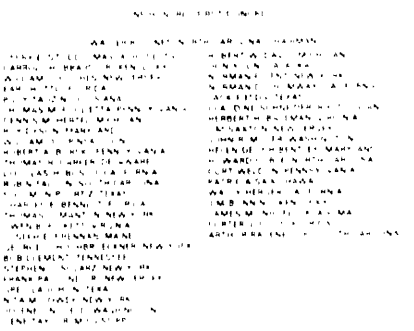
Mr. FOGLIETTA. Are there areas at the present time which you know you would not want to drill in because of environmental considerations?

Mr. CHAMBERLAIN. The private conversations I have had with a number of industry executives on the Monterey site is that everybody agrees that Monterey is a unique, sensitive and special area. The question is not whether we are going to support the designation as a sanctuary or not. The question is how far out into the ocean is the Administration going to reach and is there a reasonable balance, a cost benefit analysis, being factored into the equation in determining what the sanctuary size is.

We understand politics. We know that there is no reasonable expectation that oil and gas leasing is going to occur adjacent to state waters off the Monterey Bay. That is a reality. So the issue then becomes how far away from the sanctuary are we going to be pushed and how many oil and gas resources are going to be denied.

Mr. FOGLIETTA. I thank the gentleman. I thank the members of the panel. With the termination of the panel's testimony, this hearing is adjourned.

[Whereupon, at 12:05 p.m., the subcommittees were adjourned and the following was submitted for the record:]



U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

June 4, 1990

BACKGROUND MEMORANDUM

TO: Members, Subcommittees on Oversight and Investigations; Fisheries and Wildlife Conservation and the Environment, and Oceanography and the Great Lakes

FROM: Subcommittee Staff

DATE: June 4, 1990

SUBJECT: Status of the National Marine Sanctuaries Program

INTRODUCTION

On June 7, 1990, the Subcommittees on Oversight and Investigations, Fisheries and Wildlife Conservation and the Environment, and Oceanography and the Great Lakes will conduct a joint hearing on the status of the National Marine Sanctuaries Program under Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.). The hearing will begin at 10:00 a.m. in room 1334 of the Longworth House Office Building.

Testimony will be received from the Honorable Leon E. Panetta, (D-California), the Honorable Marc Del Piero, Supervisor, Monterey County, California; Mr. Timothy R. E Keeney, Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce; Mr. Ed Cassidy, Deputy Director, Minerals Management Service, U.S. Department of the Interior; Mr. Jack Sobel, Marine Protected Areas Program, Center for Marine Conservation; and Mr. James Martin, Manager, Environmental Protection, Regulatory Compliance and Safety for Mobile Corporation's North American Exploration and Producing Businesses.

BACKGROUND

Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA, 16 U.S.C. 1431-1445) authorizes the Secretary of Commerce to designate as National Marine

Sanctuaries areas of ocean and Great Lakes waters to preserve or restore those areas of nationally significant conservation, recreational, ecological, historical, research, educational or aesthetic value. The intent of the legislation is to allow multiple uses of the sanctuaries, where possible, while recognizing that the central concept of the program is resource protection. The National Oceanic and Atmospheric Administration (NOAA) administers the National Marine Sanctuaries Program through the Marine and Estuarine Management Division (MEMD) of the Office of Ocean and Coastal Resource Management.

EXISTING SANCTUARIES

To date, eight National Marine Sanctuaries have been designated. They are the following:

1. The U.S.S. MONITOR National Marine Sanctuary, an area one square mile in diameter surrounding and including the wreck of the famous Civil War ironclad vessel off Cape Hatteras, North Carolina;

2. Key Largo National Marine Sanctuary, a 100-square mile section of coral reef tracts in the Florida Keys;

3. Channel Islands National Marine Sanctuary, a 1,252-square mile expanse encompassing the waters surrounding the five Channel Islands, offshore Santa Barbara, California, which contain pupping grounds for numerous marine mammals and nesting areas for seabirds;

4. Gulf of the Farallones National Marine Sanctuary, a 948-square mile marine area north of the Channel Islands National Marine Sanctuary, which also contains breeding grounds for sea otters, seals, and seabirds;

5. Looe Key National Marine Sanctuary, a five-square mile lower section of the Florida Keys;

6. Gray's Reef National Marine Sanctuary, a 17-square mile, live bottom coral area, east of Sapelo Island, Georgia;

7. Fagatele Bay National Marine Sanctuary, a 165-acre site off Tutuila Island in America Samoa containing significant marine habitats including examples of Western Pacific corals and a deepwater coral terrace formation; and

8. Cordell Bank National Marine Sanctuary, the northernmost seamount on the California continental shelf.

Figure 1 shows the location of existing and proposed sanctuary sites.

SITE DESIGNATION PROCESS

Designation of a national marine sanctuary begins when NOAA selects a site from a list of eligible areas termed the Site Evaluation List (SEL). First published in 1983 and updated in 1988, the SEL contains 29 areas. When NOAA selects a site for consideration from the SEL, official notice is given by publication in the Federal Register. NOAA must then consult with

the Departments of State, Defense, Interior, Transportation, and other interested federal agencies on the impact of the proposed sanctuary on their activities. If the proposed site lies partly or wholly within state waters, appropriate state officials must be consulted. If all goes well with the consultations, the status of the site may be upgraded to "active candidate" for designation. This step also requires official notice published in the Federal Register.

After further consultation with state and federal agencies, a draft environmental impact statement (DEIS), draft management plan, and draft regulations are prepared. The sanctuary proposal, proposed regulations, and a summary of the draft management plan are published in the Federal Register. A prospectus on the sanctuary proposal, the contents of which are stipulated by 16 U.S.C. 1434 (a)(1)(C), is sent to the Committee on Merchant Marine and Fisheries of the House and the Committee on Commerce, Science and Transportation of the Senate. Either committee may conduct hearings and issue a report within 45 days of receipt of the prospectus. No sooner than 30 days after submission of the prospectus, NOAA must conduct at least one public hearing in the coastal area that will be most affected by the proposed sanctuary designation. After the 45-day Congressional review period, but not more than 30 months following Federal Register publication, NOAA may issue a final Environmental Impact Statement (EIS), final management plan, and final regulations and publish notice in the Federal Register.

During the next 45 days, Congress may disapprove designation of the sanctuary or any of the terms of the designation as enumerated in the final Federal Register notice. If the sanctuary lies partially or wholly within state waters, the governor of the state may also disapprove that portion of the sanctuary which lies in state waters. If there is no disapproval, the designation is self-executing at the conclusion of this review period.

Figure 2 outlines the designation process.

STATUS OF SANCTUARIES MANDATED BY P.L. 100-627

The 1988 amendments to the MPRSA mandated the designation of three sites from the SEL within a specific time period.

1. Cordell Bank. This proposed sanctuary off the northern California coast was required to be designated a National Marine Sanctuary on or before December 31, 1988. The sanctuary designation was published on May 24, 1989, five months late, generally owing to the controversy surrounding NOAA's proposal to ban oil and gas exploration, development, and production activities within at least part of the sanctuary boundaries. NOAA's final designation only prohibited oil and gas activities within the 18-mile sanctuary core. Subsequently, Congress amended the designation to include a ban on oil and gas exploration and development within the entire 397-square mile area of the sanctuary. This is the first time Congress acted to amend a sanctuary designation.

2. Flower Garden Banks. The proposed sanctuary, the northernmost shallow water tropical reef, was required to be designated by March 31, 1989. The prospectus was received by the Merchant Marine and Fisheries Committee on February 23, 1989. In December, 1989, the draft of final regulations for Flower Garden Banks was prepared by NOAA, but they have not cleared the Commerce Department as of this date. The major controversies surrounding this proposal are a prohibition on oil and gas activities (active Outer Continental Shelf exploration and production is occurring in this region, 115 miles off the Texas-Louisiana coast) and a ban on anchoring in the sanctuary.

3. Monterey Bay Designation of this proposed California site would protect the largest submarine canyon on the North American continental shelf. The site is nutrient rich and attracts an abundance of marine mammals and seabirds. The designation date stipulated for Monterey Bay was December 31, 1989. A preliminary DEIS was prepared by NOAA and approved by the Secretary of Commerce. Conflict has arisen between NOAA and the Minerals Management Service of the Department of the Interior over NOAA's proposal to prohibit oil and gas exploration within the 2,200-square mile preferred boundary for the sanctuary. Resolution of these differences has caused significant delays in the designation process. Apparently, the drilling prohibition is still intact but several additional boundary alternatives have been included in the latest version of the DEIS. The additional alternative sanctuary boundaries may exclude areas of interest for offshore oil and gas development. The revised DEIS has cleared the Department of Commerce but may be subject to further modification before it is released by the Office of Management and Budget.

STATUS OF OTHER PROPOSED SANCTUARY SITES

Western Washington Outer Coast is adjacent to the Olympic National Park, one of the least developed shores in North America. The site is an important haul-out area for seals and sea lions, as well as an important breeding area for marine birds. It also provides habitat for commercially important species of fish and shellfish. The DEIS has been completed but is not yet approved by the Secretary of Commerce. NOAA is developing draft regulations.

Norfolk Canyon is a submarine canyon 60 miles east of Virginia containing large tree corals and "pueblo villages"--assemblages of large invertebrates and finfish. The DEIS is being circulated for approval within NOAA.

Northern Puget Sound is under consideration as a means of protecting the exceptionally productive waters surrounding the San Juan Islands in Puget Sound. Also, three pods of killer whales reside in this area. NOAA is developing the DEIS.

American Shoal, Sombrero Key, and Alligator Reef (Florida Keys) are being studied by NOAA to determine their suitability as National Marine Sanctuaries. NOAA's report on its findings is due by November 1990. Preliminary studies have been completed. Additional studies are needed but are currently on hold pending the outcome of legislation introduced in the House to designate the entire area offshore the Florida Keys as a National Marine Sanctuary (see discussion below).

Stellwagen Bank is a shallow, glacially-deposited sandy feature located approximately six miles off the northern end of Provincetown, Massachusetts. The area's combination of physical and oceanographic characteristics supports a large variety and population of commercially important fishery resources and several species of cetaceans. In addition, several species of endangered large cetaceans--humpback, fin, and northern right whales--use the area as feeding and nursery grounds. NOAA is scheduled to publish its DEIS on Stellwagen Bank in September 1990.

Santa Monica Bay, California, also is being studied to determine the site's suitability for sanctuary status.

PROBLEMS AND DEVELOPMENTS

Pace of Designation An ongoing problem with the National Marine Sanctuaries

Program has been the sluggishness of the designation process. In fact, the 1988 amendments to MPRSA (P.L. 100-627) cited that a major purpose was to "improve the timeliness and predictability of the designation process."

One of the worst examples of the program's lassitude is Monterey Bay. One of the three initial sites selected for consideration by NOAA in 1977, consideration was suspended in 1983--without public comment--and was not resumed until the enactment of P.L. 100-627. In fact, of the 29 sites placed on the SEL in 1983, only Cordell Bank has been designated.

Even while allowing generous time lags between the various steps of the process, it is difficult to imagine why it should take more than 3-4 years to move from active candidacy to designation.

In an effort to expedite the designation process, the 1988 amendments provided expanded authorizations for funding the program and gave deadlines for designation and other procedural milestones for specific sites. Unfortunately, this approach has had little success, apparently due to the complications discussed below.

Shortfalls in Appropriated Funds. P.L. 100-627 increased the National Marine Sanctuary Program's authorization from $3.9 million in Fiscal Year 1988 to $4.9 million this fiscal year (and to $5.95 million in FY 1992). Consistently, however, appropriations have been significantly less than the authorization: only $2.6 million was appropriated in FY 1988 and $3.12 million for FY 1990. For FY 1991 the authorization level is $5.5 million and the Administration's budget request is for $3.3 million. Since the program's enactment in 1972, the authorized funding levels total $81.4 million, but the actual appropriations total only $28 million--less than 35 percent of the authorization.

Offshore Oil and Gas Conflicts. One of the likely reasons for delay in sanctuary designation is the fundamental conflict between hydrocarbon development and resource protection within sanctuary boundaries. The Channel Islands National Marine Sanctuary offshore Santa Barbara was the first sanctuary to face this conflict. NOAA's final regulations issued in 1980 prohibited new oil and gas exploration, development, and production, but grandfathered existing activities with a requirement for suitable oil spill contingency equipment. Oil and gas activities are also banned in the Point Reyes/Gulf of the Farallon Islands Sanctuary, although exceptions for pipelines connected to extra-sanctuary activities are allowed in certain circumstances.

In May 1989, Rep. Barbara Boxer introduced legislation (H.R. 2464) which would amend Title III of MPRSA to prohibit hydrocarbon or mineral exploration and development in all National Marine Sanctuaries. The bill was referred to the Merchant Marine and Fisheries Committee where it has been jointly referred to the Subcommittees on Oceanography and the Great Lakes, and Fisheries and Wildlife Conservation and the Environment. No action has been taken on this bill.

The offshore oil and gas issue has caused significant delays in the designation of Monterey Bay as a National Marine Sanctuary. NOAA's preferred boundary option would include some tracts within proposed Outer Continental Shelf Lands Act Lease Sale 119. These tracts, which allow exploratory drilling for oil and gas, are a source of concern for the Minerals Management Service. At present, a prohibition on hydrocarbon and minerals exploration and development remains in the DEIS. The President has not yet released a final report by the OCS Task Force, which is considering recommendations affecting oil and gas activities offshore California and Florida. Although the Task Force is not considering Lease Sale 119, there is most likely a strong desire within the Administration to present a uniform policy towards offshore energy development.

Interagency Coordination. As noted previously, Congress took steps in 1988 to expedite the sanctuary designation process. Unfortunately, a bureaucratic Gordian knot appears to have developed between the sanctuary program and the Office of Management and Budget's (OMB) regulatory review function. The 1988 milestones for the most part are tied to the publication of a site's DEIS, draft management plan, and prospectus. OMB is now requiring interagency coordination and the clearance of affected departments and agencies **prior to the publication** of proposed rules, or in this case, a DEIS. Consequently, a site's designation can fall into limbo **before the process reaches the statutorily imposed milestones.**

The Monterey Bay situation illustrates the problem. NOAA completed the DEIS in the spring of 1989 and at OMB's direction circulated it for interagency review. It remains stuck in the review process because of the controversy over the proposed prohibition on oil and gas exploration and development; the Department of the Interior has not "cleared" it. A similar situation is developing for both Norfolk Canyon and Western Washington Outer Coast.

Apparently, there is debate within the Administration regarding OMB's involvement in the early stages of the National Marine Sanctuary Program's site designation process. While OMB routinely reviews and pre-clears agency rules before publication, it would appear to have no authority over National Environmental Policy Act (NEPA) documents. Council on Environmental Quality (CEQ) regulations read, "**After preparing a draft EIS** and before preparing a final EIS, an agency shall obtain the comments of any federal agency which has jurisdiction by law or expertise . . . and any agency which has requested that it receive statements on actions of the kind proposed." (40 C.F.R. 1503.1(a). Emphasis added.) Requiring NOAA to obtain another agency's comments or clearance before a DEIS is released would seem to be inconsistent with the CEQ regulation and a distortion of the NEPA public comment process.

Size. Another issue is the appropriate size of marine sanctuaries. The MPRSA authorizes designation of "discrete" areas of the marine environment as sanctuaries. The statute also requires the Secretary of Commerce to find that the sanctuary area is "of a size and nature [which] will permit comprehensive and coordinated conservation and management." On the other hand, large sanctuaries can provide a "buffer zone" of additional protection around a core of special features, such as coral reefs or breeding areas. Also, marine ecosystems are often quite large. Ecologists are increasingly recognizing the value of protecting entire ecosystems as functional units, both in terrestrial and aquatic environments. This is especially true since pollutants and living marine resources do not respect artificial boundaries. On the other hand, increased size leads to increased management problems in terms of money and personnel; it does no good to have on paper a management scheme which cannot be implemented.

The committee report accompanying H.R. 2062 (the 1984 Amendments to MPRSA) states that the Merchant Marine and Fisheries Committee and NOAA considered the Channel Islands National Marine Sanctuary (1,252 square nautical miles) to represent the upper size limit of the sanctuaries program. An upper size limit is not, however, written into any legislation. NOAA has proposed a large sanctuary for Monterey Bay (2,200 square miles) to encompass and protect the ecosystem, particularly because of the highly mobile marine mammal populations which inhabit the region. The same consideration may apply in the case of the Florida Keys, where the reefs and surrounding submerged areas constitute a large but discrete ecosystem. A bill has been introduced by Congressman Dante Fascell to create a unified Florida Keys National Marine Sanctuary (H.R. 3719). The proposed sanctuary area would encompass almost 1,600 square miles.

Fisheries Conflicts. Almost all national marine sanctuaries regulate the taking of fish

or other living marine resources such as coral, generally through a restriction on fishing equipment or a permit system. For example, in the Key Largo National Marine Sanctuary, spearfishing is banned, as well as wire fish traps and bottom trawls. However, taking of spiny lobsters and stone crabs is allowed if consistent with fishery management plans developed under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Concern over fisheries regulation within sanctuaries has caused some opposition to proposed sanctuaries. Opposition from the fishing industry caused NOAA to scrap plans for a humpback whale sanctuary in Hawaii. Although fishing interests were initially supportive of a George's Bank sanctuary, offshore New England, support waned once a hydrocarbon exploration and development moratorium was enacted.

The 1984 amendments to MPRSA mandated that Regional Fishery Management Councils created by the Magnuson Act be provided the opportunity to draft fisheries regulations for a proposed sanctuary. The Secretary of Commerce may revise or redraft Regional Fishery Management Council regulations if they are deemed to be insufficient or inappropriate for the purposes for which the sanctuary is to be designated. No regulations have been developed under the 1984 authority, but fishing interests continue to be concerned. For example, commercial fishing opposition to the proposed Stellwagen Bank sanctuary, offshore Massachusetts, remains active, apparently because of concern that the New England Regional Fishery Management Council regulations will be revised, thereby overregulating or unnecessarily restricting commercial fishing activities within the sanctuary area.

Shipwrecks and Sanctuaries. Since Congress passed the Abandoned Shipwreck Act in 1988 (P.L. 100-298), the question has arisen over who can control the management and disposition of historic shipwrecks that lie within both state waters and marine sanctuary boundaries. The Abandoned Shipwreck Act asserted and transferred title to historic shipwrecks in state waters to the several states, while at the same time preserving the authority of the Secretary of Commerce to manage marine sanctuaries that might contain such wrecks. A disagreement currently exists between NOAA and the California State Lands Commission (SLC) over the proper management of what may be the SAN AUGUSTINE, an historic Spanish wreck, thought to be in the Gulf of the Farallones Marine Sanctuary. SLC maintains that since California has title to the wreck, it has exclusive control of its disposition. On the other hand, NOAA maintains that it can require the salvor to obtain a permit before excavating the wreck from sanctuary waters. The case is currently in admiralty court.

ISSUES

How can the National Marine Sanctuary designation process be expedited? It was thought that P.L. 100-627 would provide the impetus for getting sanctuaries designated in a timely fashion, but NOAA has failed to meet any of the legislatively mandated deadlines.

1. Is further streamlining of the process necessary or are the delays arising from deficiencies in personnel or funding?

2. Why should marine sanctuaries be treated differently from national parks, wildlife refuges, forests, and wilderness areas (which are established by acts of Congress)?

3. How can interagency conflicts be more quickly resolved?

4. What is OMB's proper role in the clearance of sanctuary documents?

Should hydrocarbon and mineral exploration and development be allowed within national marine sanctuaries?

1. Are such activities ever consistent with the purposes of a National Marine Sanctuary?

2. Should there be a blanket prohibition on such activities within National Marine Sanctuaries or would this prevent designation of some sites which would otherwise be eligible?

How large should national marine sanctuary sites be? The preferred boundary alternative for the Monterey Bay sanctuary would make it by far the largest National Marine Sanctuary. Reasons for selecting this area appear sound ecologically but raise difficult management questions.

1 What is the most important criterion in deciding the size of a sanctuary: ecosystem protection or manageability?

2. Given the financial constraints on the program, are regulations enforceable over such a large area?

3 Is the local public supportive of a sanctuary this size?

Is funding for the National Marine Sanctuaries Program adequate?

1 Has money, in fact, been a limiting factor in getting sanctuaries designated?

2. Is present funding providing adequate enforcement of sanctuary regulations or is the program just a "paper tiger"?

3. What additional resources will be required if and when the designations currently being considered by NOAA and Congress are approved?

How well do the fisheries regulations for the sanctuaries work? There is often a hue and cry when sanctuaries are being proposed, but few complaints directed at existing sanctuaries are heard

1. Is the fishing industry generally satisfied with fishery regulations within marine sanctuaries?

2 Do these sanctuaries benefit fishing interests by protecting fish habitats or do they unnecessarily restrict fishing?

3. Under what circumstances might NOAA consider recommending to the Secretary of Commerce that the suggestions of a Regional Fisheries Management Council for regulating fishing within a sanctuary be overridden? (MPRSA Title III gives NOAA the authority to override fisheries regulations proposed by the Regional Fishery Management Council.)

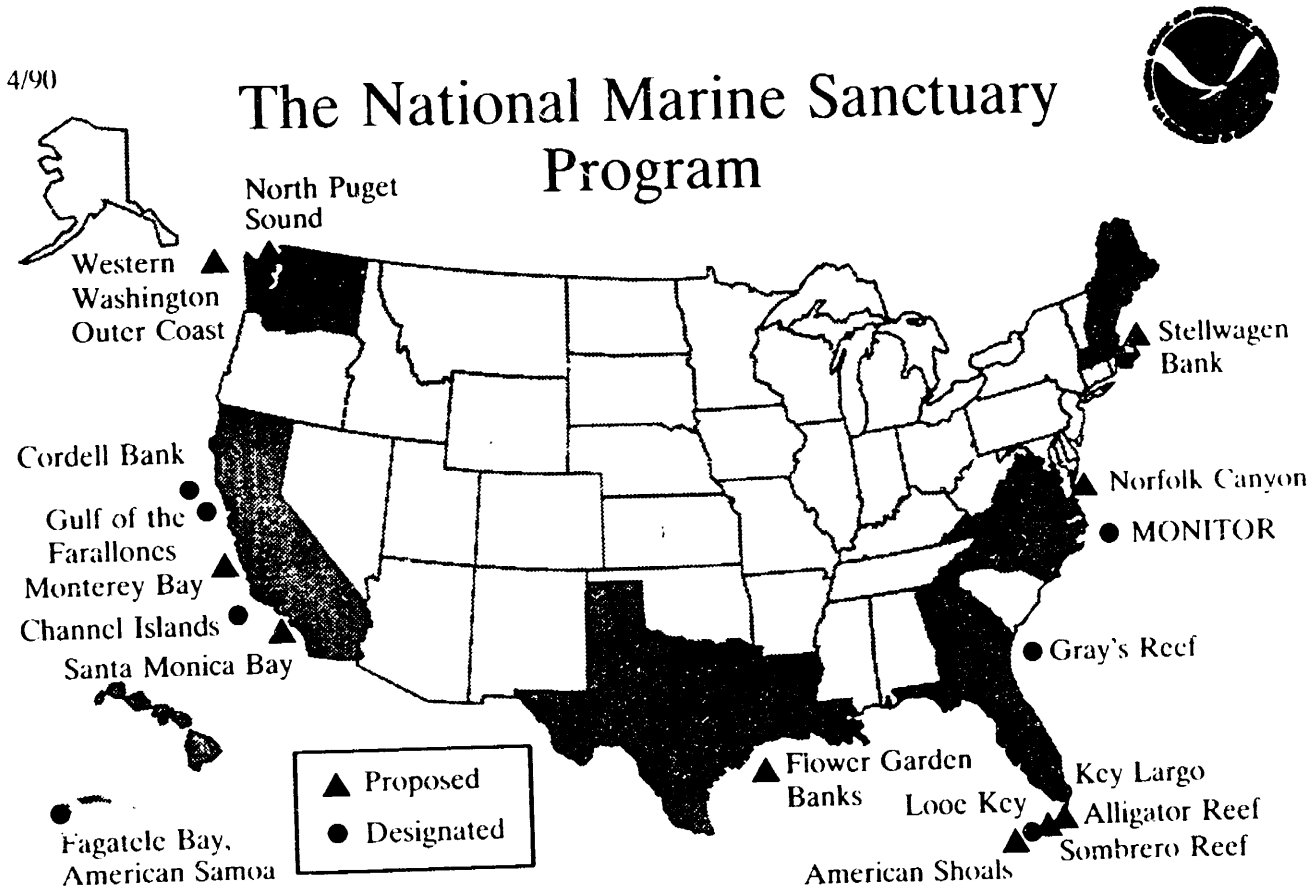

4/90
The National Marine Sanctuary Program
North Puget Sound
Western Washington Outer Coast
Cordell Bank
Gulf of the Farallones
Monterey Bay
Channel Islands
Santa Monica Bay
Fagatele Bay, American Samoa
Stellwagen Bank
Norfolk Canyon
MONITOR
Gray's Reef
Flower Garden Banks
Looe Key
Key Largo
Alligator Reef
Sombrero Reef
American Shoals
Proposed
Designated

Figure 1

Figure 2

SANCTUARY DESIGNATION PROCESS
(As provided by the 1984 Amendments to MPRSA)

Procedural Steps	Documentation	Allotted Time
FINAL SEL	o FR NOTICE	
↓		
NOAA SELECTS SITE FROM SEL	o FR NOTICE, WRITTEN ANALYSIS OF HOW SITE MEETS SEL CRITERIA	
↓		
PRELIMINARY CONSULTATION	o PUBLIC NOTICE o DISSEMINATE WRITTEN ANALYSIS	
↓		
NOAA SELECTS ACTIVE CANDIDATE	o FR NOTICE, PUBLIC NOTICE	
↓		
REGIONAL SCOPING MEETING	o FR NOTICE, PUBLIC NOTICE	
↓		
PROSPECTUS TO CONGRESS FOR REVIEW; DEIS, DRAFT MANAGEMENT PLAN (INCLUDING PROPOSED REGULATIONS)	o FR NOTICE, PUBLIC NOTICE	
↓		
PUBLIC HEARING		o AT LEAST 30 DAYS AFTER PUBLIC NOTICE OF HEARING
↓		
FEIS, FINAL MANAGEMENT PLAN	o FR NOTICE	
↓		
DESIGNATION BY SECRETARY OF COMMERCE AND ISSUANCE OF DESIGNATION DOCUMENT	o FR NOTICE OF DESIGNATION, PUBLIC NOTICE	o MUST BE ISSUED NOT MORE THAN 30 MONTHS AFTER SELECTION
↓		
CONGRESSIONAL AND GUBERNATORIAL REVIEW		
↓		
IMPLEMENTATION OF MANAGEMENT PLAN		o BECOMES EFFECTIVE AFTER 45 DAY CONGRESSIONAL & GUBERNATORIAL REVIEW PERIOD

Figure 3
(1 of 2)

CHRONOLOGY FOR DESIGNATION OF NATIONAL MARINE SANCTUARIES

SANCTUARY	PLACEMENT OF SITE ON SITE EVALUATION LIST	NOTICE OF ACTIVE CANDIDACY	PUBLIC SCOPING MEETING	COMPLETION OF NOAA'S RESOURCE ASSESSMENT	PRELIMINARY EIS & MGMT PLAN	DRAFT EIS, MGMT PLAN & PROPECTUS PUBLISHED	PUBLIC HEARINGS	CLOSE OF 45 - 60 COMMENT PERIOD	COMPLETE WRITING COMMENT RESPONSES	FINAL EIS, MANAGEMENT PLAN PUBLISHED	DESIGNATION
Gray's Reef, GA	these sites	10/12/79 issue paper	11/19-20/79	1/80	3/80	6/11/80 (EIS only)	7/7-8/80	8/5/80	8/80	9/80 (EIS only)	1/28/8 (Presidential)
Gulf of the Farallones, CA	were all	12/27/78	4/79	4/11/80	11/5/79 (EIS only)	3/28/79 (EIS only)	5/13/79	5/27/80	7/80	10/3/80 (EIS only)	1/16/8 (Presidential)
Monterey Bay, CA 1st Development	designated	12/78	draft management plans were prepared in 1979 and 1982			development terminated 12/20/83					
Monterey Bay, CA 2nd Development Effort	or in	1/6/89	1/23-26/89	5/89	11/89	2 weeks after inter-agency review	30 days after DEIS publication	60 days after DEIS publication	90 days* after DEIS publication	120 days* after DEIS publication	30 days after Final
Flower Garden Banks, TX 1st Development Effort	development prior to the	6/78	7/78	10/78	4/79	6/80	development terminated 8/80				
Flower Garden Banks, TX 2nd Development Effort	existence of the Site	8/2/84	6/86	7/88	11/23/88	2/24/89	3/30/89	4/4/89	12/89	8/90	9-10/90
Norfolk Canyon, VA	Evaluation List	9/17/85	6/11/86		3/90	awaiting inter-agency review	30 days after DEIS publication	60 days after DEIS publication	90 days* after DEIS publication	120 days* after DEIS publication	30 days after Final
Western Washington Outer Coast	1983	3/10/89	4/10-13/89	12/89	5/90	7/90	8/90	9/90	10/90	11/90	2/91
Stellwagen Bank, MA	1983	4/19/89	6/13-16/89	5/90	6/90	9/30/90	10-11/90	11-12/90	2/91	8/91	9-10/91
Northern Puget Sound, WA	1983	10/13/89	11/8-18/89	7/90	9/90	3/31/91	4/91	5/91	6/91	8/91	10/91

Figure 3
(2 of 2)

NOTES

Site Evaluation List Candidates: all sites listed on the table, except Western Washington, Stellwagen Bank, and Northern Puget Sound, became active candidates prior to the existence of the Site Evaluation List.

Changes in the Designation Process: The designation process was changed substantially in 1984. The designation of Gray's Reef, Gulf of the Farallones, and the first efforts for Monterey Bay and Flower Garden Banks followed the pre-1984 reauthorization designation process. Under the pre-1984 process public workshops were held approximately 6 months prior to the "Notice of Active Candidacy". The pre-1984 process only required the preparation of an environmental impact statement (EIS) and regulations. No Congressional Prospectus was required. Site Management Plans were prepared in the two years following designation. Pre-1984 designations were made by the President of the United States. Post-1984 designations are made by the Secretary of Commerce.

The information included in Figure 3 was provided by NOAA.

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

June 7, 1990

OFFSHORE OIL AND GAS EXPLORATION

TO: Members, Subcommittees on Oversight and Investigations, Fisheries and Wildlife Conservation and the Environment, and Oceanography and the Great Lakes

FROM: Subcommittee Staff

DATE: June 7, 1990

SUBJECT: The safety record of OCS exploration and development

---

On June 7, 1990, the Subcommittees on Oversight and Investigations, Fisheries and Wildlife Conservation and the Environment, and Oceanography and the Great Lakes will conduct a joint hearing on the status of the National Marine Sanctuary Program under Title III of the Marine Protection, Research and Sanctuary Act of 1972 (16 U.S.C. 1431 et seq.). A predominant issue of the hearing is the impact of oil and gas development and exploration on the designation process. The conflict between hydrocarbon development and resource protection within sanctuary boundaries has delayed the designation of at least two sanctuaries. This memo briefly discusses some of the general issues involved in the controversy surrounding oil and gas development in the Outer Continental Shelf. For further analysis on this subject, consult the CRS memorandum on the "Record of Spillage Resulting from OCS-Related Activities" and the CRS Issue Brief entitled "Outer Continental Shelf Leasing and Development," included with this memo (Attachments 1 and 2, respectively).

In a recent Washington Post article (see Attachment 3), Barry Williamson, Director of the Minerals Management Service (MMS) of the Department of the Interior is quoted as saying, "The offshore oil and gas industry...is under constant seige by environmental groups and residents of coastal communities. Somehow, the admirable environmental and safety record of this industry has failed to make its imprint on public perceptions." The article further describes Williamson's efforts to improve the

image of MMS's offshore drilling program. Using Department of the Interior data, Williamson's assertion about the improved environmental and safety record of the domestic offshore drilling as a separate unity is, for the most part, supported.

Under the assumption that oil well blowouts constitute the greatest threat to the environment, the record for domestic offshore exploration has greatly improved since the Santa Barbara blowout (77,000 barrels) in 1969 to the point where only 175 barrels have spilled due to blow outs from 1978-1988 (see Table 1). The greatest cause of oil spills related to offshore drilling has been pipeline ruptures. In the same ten year period, approximately 23,000 barrels were attributed to pipline ruptures; including 14,944 barrels in 1988. In comparison to the 1978-1988 total from domestic OCS oil production of 3.7 billion barrels, these blowouts and spills appear insignificant. A chronology of the causes of major spills (greater than 1,000 barrels) from OCS activities appears in Table 2.

Clearly, the domestic offshore drilling industry has yet to experience a Valdez type spill. OCS supporters also point out that spills from tankers are far more common place and generally, more damaging to the environment than any recent spill related to OCS activities. A 1985 National Academy of Sciences study determined that offshore oil production accounted for only two percent of the oil found in the oceans and seas (see Figure 1). The leading source of oil in the seas is from transportation (45%): tanker operations, tanker accidents, bilge and fuel discharges. Municipal and industrial waste accounts for 36%. Seventeen percent was attributed to atmosphere and natural sources, such as seepage from the ocean bottom. Opponents to OCS oil and gas development point out that oil and gas production from offshore platforms must be transported to refineries either by pipeline or tanker. Therefore, transportation of product is an "associated" risk of OCS development, and can not be easily separated from the overall safety record.

However, the international record for offshore oil and gas development is not without blemish as evidenced by a series of 1980 blowouts off the coast of Saudi Arabia, with the loss of over 100,000 barrels, and the 1979 Bahia de Campeche incident in the Gulf of Mexico when an exploratory well blew out losing a total 3.3 million barrels of oil. MMS argues that the reason for the increased number of foreign blowouts and spills is because the foreign operators do not have to adhere to the more stringent U.S. regulations and do not apply the blowout prevention technology commonly used on U.S. offshore platforms.

As in most environmental policy issues, Congress must balance the goal of promoting OCS oil and gas development with other goals, especially, the protection of coastal and marine resources. While oil industry interest in leasing OCS tracts has declined over the past 5 years, both the Reagan and Bush Administrations have placed a high priority on the development of

the OCS resources. The rationale behind this position is to lower dependency on foreign oil. The Bush Administration is currently undertaking a review of lease sales off Florida and California, including environmental concerns.

In the context of this hearing, however, one question has emerged: does OCS oil and gas activity run counter to the goals of the National Marine Sanctuary program? The program was originally authorized to preserve or restore those areas of nationally significant conservation, recreational, ecological, historical, research, educational, or esthetic value. Can it be argued that OCS oil and gas activity run directly counter to these goals? Environmentalists argue that OCS development constitutes nothing more than major industrial activity, thus are incompatable with the goals of the National Marine Sanctuary Program. They cite the potential for blowouts and oil spills, as well as the other adverse environmental impacts associated with OCS activity (tanker traffic, the discharge of drilling muds and fluids, and air pollution) as reasons for a ban on oil and gas development in National Marine Sanctuaries.

TABLE 1. OCS SPILLS (IN BARRELS), FROM BLOWOUTS AND PIPELINE RUPTURES, AND OCS OIL PRODUCTION (IN BARRELS), 1971 THROUGH 1988

Year	Blowouts	Pipeline	Total	Production
1969	77,000	7,532	84,532	312,860,000
1970	83,000	0	83,000	360,646,000
1971	450	0	450	418,549,000
1972	0	0	0	411,886,000
1973	0	21,935	21,935	394,730,000
1974	275	23,333	23,608	360,594,000
1975	0	0	0	330,237,000
1976	0	4,000	4,000	316,920,000
1977	0	0	0	303,948,000
1978	0	0	0	292,265,000
1979	0	1,500	1,500	285,566,000
1980	1	1,456	1,457	277,389,000
1981	64	5,100	5,164	289,765,000
1982	0	0	0	321,211,000
1983	0	0	0	348,331,000
1984	10	0	10	370,239,000
1985	40	0	40	389,324,000
1986	0	0	0	389,216,000
1987	60	0	60	366,142,000
1988	0	14,944	14,944	320,667,000
TOTAL	160,900	79,800	240,700	6,860,485,000

Source: U.S. Department of the Interior, Minerals Management Service. Federal Offshore Statistics: 1988 (OCS Report MMS 89-0082, 1989).

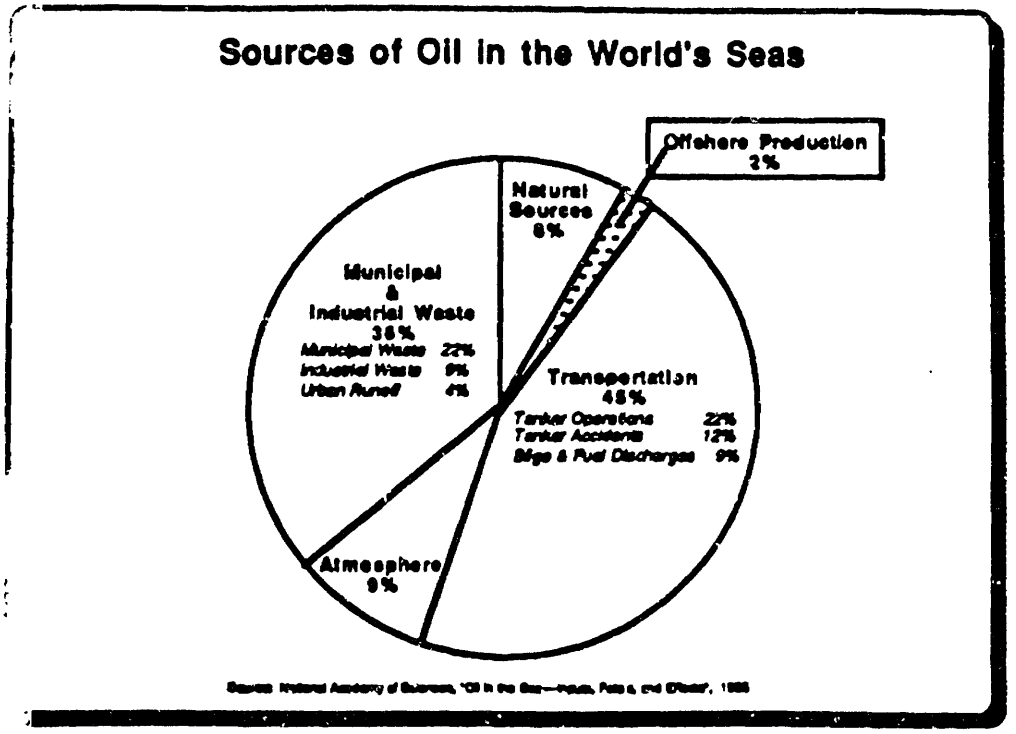
TABLE 2. MAJOR OIL SPILLS (GREATER THAN 1,000 BARRELS) FROM OCS ACTIVITIES, 1964 THROUGH 1988

Year	Site/Description	Spill (barrels)
1964	Eugene Island: freighter struck platform	2,559
	Eugene Island: platform in hurricane	5,180
	Ship Shoal: platform in hurricane	5,100
	Ship Shoal: platform in hurricane	1,589
1965	Ship Shoal: well blowout	1,688
1967	West Delta: anchor damage to pipeline	160,638
1968	South Timbalier: anchor damage to pipeline	6,000
1969	Santa Barbara Channel: well blowout	77,000
	Main Pass: anchor damage to pipeline	7,532
	Ship Shoal: ship struck platform during storm	2,500
1970	Main Pass: well blowout	30,000
	Main Pass: well blowout	53,000
1971		none
1972		none
1973	West Delta: struc. failure, tank rupture	9,935
	South Pelto: storage barge sank	7,000
	West Delta: pipeline corrosion	5,000
1974	Eugene Island: anchor damage to pipeline	19,833
	Main Pass: hurricane damage to pipeline	3,500
1975		none
1976	Eugene Island: trawl damage to pipeline	4,000
1977		none
1978		none
1979	Main Pass: vessel collided w/ semisubmersible	1,500
1980	High Island: pump failure, tank spill	1,456
1981	South Pass: anchor damage to pipeline	5,100
1982		none
1983		none
1984		none
1985		none
1986		none
1987		none
1988	Galveston: anchor damage to pipeline	14,944
	TOTAL	425,054

* Estimates of spillage from the 1969 Santa Barbara blowout vary from an estimated 10,000 barrels (U.S. Geological Survey estimate) to 77,000 barrels.

Source: U.S. Department of the Interior, Minerals Management Service, "Federal Offshore Statistics: 1988" (OCS Report MMS 89-0082). See Table 65.

Figure 1


Sources of Oil in the World's Seas
Offshore Production
2%
Natural
Sources
6%
Municipal
&
Industrial Waste
36%
Municipal Waste 22%
Industrial Waste 9%
Urban Runoff 4%
Transportation
45%
Tanker Operations 22%
Tanker Accidents 12%
Bilge & Fuel Discharges 9%
Atmosphere
9%

Attachment 1

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

May 31, 1990

TO : House Merchant Marine and Fisheries Committee
Subcommittee on Oversight and Investigations
Attention: Chris Dollase

FROM : Malcolm M. Simmons MMS
Specialist
Environment and Natural Resources Policy Division

SUBJECT : Record of Spillage Resulting from OCS-Related Activities

This memorandum responds to your request for analysis of the Interior Department's claims that the environmental record regarding oil spillage from OCS-related activities has improved. The only systematic (or complete) data set I was able to find for the analysis was the data provided by the Interior Department's Minerals Management Service (MMS). The analysis is limited to domestic OCS activities.

OCS activities include leasing, exploration, development, and production. Blowouts during the exploration process traditionally held the greatest potential for oil spillage, although that has changed now because of improvements in blowout prevention technology and environmental regulation. In the exploration process, the record shows that since the Santa Barbara blowout in 1969, oil spillage has declined dramatically. In this regard, the claims of the Interior Department's MMS appear correct.

However, most OCS-related spillage now occurs from pipeline ruptures during the development and production phases. As is the case for blowout spills, the trend in spills from pipeline ruptures is also downward, although not nearly as dramatically. The probable reason for the decline is the Interior Department policy instituted in the late 1970s that new pipelines had to be

buried to a depth at least three feet below the sea floor, out to a water depth of 200 feet. 1/

The reason for the improved environmental record for domestic OCS activities since 1970 is probably both the success of new drilling technologies and more stringent environmental controls. An example of successful technology is improved blowout preventers. Examples of more stringent environmental controls include requirements for burial of pipelines, worker training programs, more stringent regulation, inspection programs, and oil spill contingency plans.

The public perception of OCS-related spill damage appears inconsistent with the environmental record since 1970, possibly because the domestic OCS development industry is often mistakenly blamed for oil spill damage resulting from non-OCS related activities -- such as the importation of foreign oil or the transportation of onshore produced oil (e.g. Exxon Valdez spill) -- or mistakenly associated with oil spill damage resulting from OCS development abroad.

The current debate is both one of public perception and risk assumption. Regarding public perception, there is likely confusion as to the environmental record of OCS activities. Regarding risk assumption, the controversy focuses on which oil development strategies pose the least likelihood of oil spills. 2/ For example, the environmental record shows that OCS activities since 1970 pose a very low oil spill risk nationally, in contrast to other oil development strategies, such as tankered oil from abroad and tankered oil from onshore sources in Alaska. However, is a coastal locality or State likely to assume this decreased national risk of OCS development, when the local risk might be increased, however slightly (the "not-in-my-backyard" syndrome)?

Table 1/Figure 1 shows blowout and pipeline crude oil and condensate spillage, on the domestic OCS in Federal waters, 3/ from 1969 through 1988, and compares this spillage to domestic OCS oil production during those years. During this 20-year period, OCS oil production averaged 343 million barrels per year (with a range of 277 to 418 million barrels per year).

1/ See 30 CFR 250.153(a)(1) and 49 CFR 195.246(b).

2/ This controversy assumes that even with conservation and development of energy alternatives, petroleum is an important part of our energy future for the next few decades.

3/ The data do not include oil spillage related to State offshore development in areas of State jurisdiction.

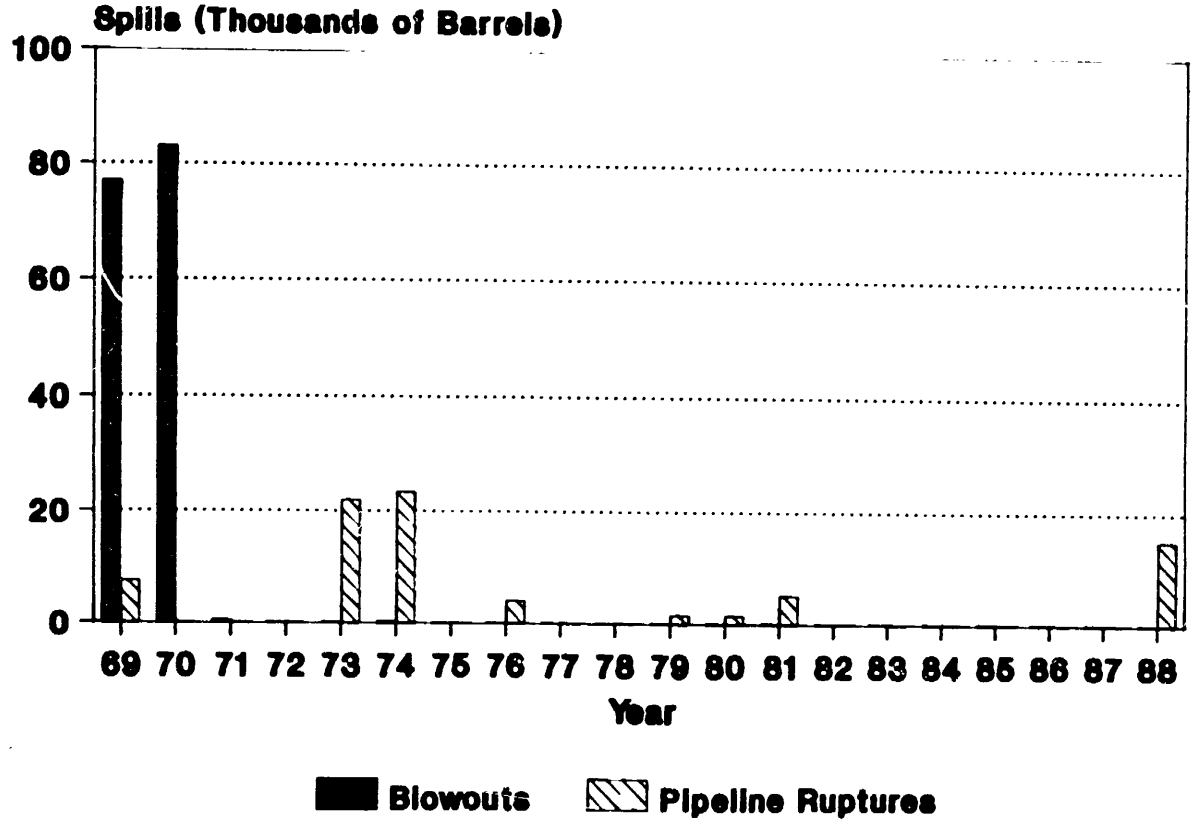
Blowout spills for the years 1969 and 1970 were high -- 77,000 and 83,000 barrels, respectively. Since then, spills from blowouts declined dramatically, to insignificant amounts.

After 1970, the largest source of OCS-related spills was from pipeline ruptures. While the trend in pipeline spills has been downward since the early 1980's (no spillage from pipeline ruptures occurred from 1982 through 1987), a ruptured pipeline resulted in spillage of 14,944 barrels in 1988. The source of this data does not state whether this 1988 spillage occurred from a new pipeline becoming unburied, or from an old pipeline that did not require burying.

Table 2 shows major (greater than 1,000 barrels) crude oil/condensate spills, and their cause, from wells on the Federal OCS from 1964 through 1988. The 22 major spills during this period amounted to 425,054 barrels of spilled oil. All the major spills in Table 2 were in the Gulf of Mexico, except the 1969 Santa Barbara blowout.

If you have any further questions or need any further assistance, please do not hesitate to call me at 707-7265.

OCS Oil Spills, 1969 - 1988



Source: DOI, MMS, 1989.

Attachment 2

CRS Issue Brief

Outer Continental Shelf Leasing and Development

Updated May 14, 1990

by
Malcolm M. Simmons
Environment and Natural Resources Policy Division

Congressional Research Service • The Library of Congress

CONTENTS

Outer Continental Shelf Leasing and Development

SUMMARY

Oil industry interest in leasing Outer Continental Shelf (OCS) tracts declined dramatically during FY1985 and FY1986, largely because of the downward trend in world oil prices, but also because of disappointing drilling results in frontier areas. The Reagan Administration, concerned that these effects would lead to increased dependence on foreign oil supplies, announced in June 1986 an initiative to develop the Nation's domestic energy resources (both offshore and inshore). In October 1986, the Interior Department proposed incentives to rekindle industry interest in OCS exploration. Also, it finalized in July 1987 its new 5-year leasing plan for the period January 1988 through June 1992. Included in the plan was the availability of 1,120 tracts -- or 13% of the California OCS previously under congressional moratoria -- for leasing, starting in 1989.

President Bush announced in his FY1990 budget proposal that his Administration believes oil and gas development is necessary to ensure a reliable supply of energy and for the Nation's economic and national security. Since then, the President has established a Government task force to review and resolve environmental concerns involving areas off California and the Florida Gulf coast.

For the past 9 years (FY1982 through FY1990) Congress has enacted moratoria (through provisions in the Interior Department appropriations enactments) that have prevented the Interior Department from leasing certain OCS areas. The specific areas covered by the moratoria have varied from year to year, but generally have been off New England and California, and sometimes Florida, the mid-Atlantic, and Alaska. Particularly heated congressional debate has occurred over the southern California OCS moratoria. The FY1990 Department of the Interior Appropriations legislation (P.L. 101-121) contains provisions that prohibit leasing or drilling in areas off Alaska, California, Florida, Massachusetts, and the Mid-Atlantic coast.

At issue for Congress is the appropriate direction to give the OCS oil and gas development program. This "appropriate" direction must balance the goal of promoting OCS oil and gas development with other goals, such as protection of coastal and marine resources.

ISSUE DEFINITION

Oil industry interest in leasing Outer Continental Shelf (OCS) tracts declined dramatically during FY1985 and FY1986, largely because of the sharp decline in world oil prices, but also because of disappointing drilling results in frontier areas. In addition, during the past 9 years Congress has enacted annual moratoria that prevented the Interior Department from leasing certain OCS areas -- some of which are considered to be among the more promising areas. Taken together, the oil price decline and moratoria legislation have limited OCS oil and gas development. The Reagan Administration took note of this, and began in 1986 a program to rekindle industry interest in OCS leasing. The Bush Administration has continued general support of oil and gas development, but also has sought to review the environmental concerns for lease sales off California and South Florida.

At issue for Congress is the appropriate direction to try to give the OCS oil and gas development program. This "appropriate" direction must balance the goal of promoting OCS oil and gas development with other goals, such as protection of coastal and marine resources.

BACKGROUND AND ANALYSIS

The first petroleum development in submerged lands occurred in near-shore, shallow waters in warm climates. Large-scale commercial development of offshore oil and gas resources did not begin until the mid-1950s in the Gulf of Mexico. As drilling, production, and safety technology improved, however, the development of petroleum in deeper waters and harsher climates became possible. While the shallow waters of the delta region of the Gulf of Mexico and later the coast of California had been the initial sites of large-scale development, the deeper waters in these same regions and the submerged lands off the North Atlantic and Alaska coasts became candidate areas. Today, commercial development occurs in water depths of 1,300 feet for fixed platforms, and 1,700 feet for tension-leg platforms. Exploration is possible at depths of 7,500 feet.

Offshore oil and gas development occurs in both Federal and State jurisdictions. The Federal jurisdiction, called the Outer Continental Shelf (OCS), is composed of all Federal submerged lands beyond the 3-mile area of State jurisdiction in most offshore waters, and beyond the 10-mile (approximately) area of State jurisdiction in the Gulf of Mexico waters off Texas and Florida. This issue brief discusses the program for development of hydrocarbon resources in the areas under Federal jurisdiction.

The Federal OCS leasing process is carried out by the Minerals Management Service (MMS) in the Department of the Interior. MMS prepares a 5-year plan (see Table 3) for the upcoming sales in the leasing regions (Atlantic, Gulf, Pacific, and Alaskan). At the time of the sale, prospective lessees make bids -- called bonus bids -- on tracts, which, if the winning bid, entitle the lessee to explore and develop a tract. Once acquired, the lessee pays rent on the tract, until either the leases expires or is relinquished, or development of oil and gas occurs. If oil and gas production occurs, the lessee pays royalties on the oil and gas produced (see Table 2).

Statutory Responsibility

The principal authority for OCS petroleum development is the OCS Lands Act of 1953, as amended. Important amendments in 1978 provided for the balancing between expedited exploration and development, and protection of the human, marine, and coastal environments. Additionally, the 1978 amendments provided coastal and State governments a mechanism for input into this balancing of values.

Responsibility for carrying out the provisions of the OCS Lands Act, as amended, resides with the Interior Department's Minerals Management Service (MMS). Section 18 requires the Interior Department to develop a 5-year plan for OCS sales. Section 19 requires the Secretary to consult with the affected States during the lease sale process, accepting the State's recommendations as to the "size, timing, or location" of a proposed sale, if these recommendations "provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State."

The Interior Department must fulfill statutory responsibilities relating to OCS activities under the Coastal Zone Management Act (CZMA) of 1972, as amended. The Interior Department must also fulfill statutory responsibilities under the National Environmental Policy Act of 1970, which requires the preparation of environmental impact statements (EISs) for major Federal actions significantly affecting the quality of the human environment. The Interior Department prepares an EIS for every lease sale. Finally, the Interior Department must fulfill statutory responsibilities required by the Marine Protection, Research and Sanctuaries Act, the Endangered Species Act, the Federal Water Pollution Control Act, the Clean Air Act, and the Marine Mammal Protection Act.

Declining World Oil Prices

After an 9-year downward trend, the 1990 average price of oil in the United States is between one-fourth and one-third of the 1981 peak.

Oil price decline, together with lack of exploration success, has led to a curtailment of exploration activity in many OCS regions, particularly in the high risk/high cost "frontier" areas where no oil or gas has been developed previously. Industry interest in OCS exploration has declined dramatically in Alaskan and the eastern seaboard regions, where many of the basins have been drilled with little success. Even in the least-risk area -- the central and western Gulf of Mexico -- industry interest had declined, at least until the 1987 Gulf sales. The one "frontier" area where industry interest still exists is the deep-water OCS off southern California. —

Some coastal States, in particular those bordering the Central and Western Gulf, are concerned about this trend and the attendant declining economic activity in the oil and related industries. Many sales in the previous 5-year leasing schedule were cancelled or postponed because of lack of industry interest, and those that were held had relatively little (and low) bonus bidding.

Record of the OCS Program

Although the current leasing program offers the possibility of leasing more acreage, producing more oil and gas, and producing more Federal revenues, it does not assure any of these. Success in these endeavors is dependent on a variety of factors. First and foremost is the world price of oil. Other important factors include the petroleum potential of the acreage, the expected cost of extraction of the petroleum, the financial and technical capacity of oil companies to develop increased offshore acreage, the bidding system used for the lease sale, the attractiveness to oil companies of other energy development alternatives, and, finally, the extent to which environmental concerns cause deletion of tracts, delay, or increased costs of tract development.

Leasing and Production. Table 1 shows the acreage offered and leased, and production, since 1970.

TABLE 1: Acreage Offered/Leased and Production for Federal OCS Leasing Program, Calendar Years 1970-1988

Year	Acreage		Production	
	Offered	Leased	Oil a/ (mbbl)	Gas b/ (tcf)
1970	666,845	598,540	361	2.419
1971	55,872	37,222	419	2.777
1972	970,711	826,195	412	3.039
1973	1,514,940	1,032,570	395	3.212
1974	5,006,881	1,762,158	361	3.515
1975	7,247,327	1,679,877	330	3.459
1976	2,827,342	1,277,937	317	3.596
1977	1,843,116	1,100,734	304	3.738
1978	3,140,696	1,297,274	292	4.385
1979	3,412,249	1,767,443	286	4.673
1980	2,563,452	1,134,227	277	4.641
1981	7,679,740	2,265,537	290	4.850
1982	7,637,122	1,886,360	321	4.680
1983	120,942,040	6,587,823	348	4.041
1984	154,383,680	7,494,722	370	4.538
1985	87,097,709	3,512,043	389	4.001
1986	58,670,103	734,418	389	3.949
1987	59,762,077	3,447,809	366	4.426
1988	158,016,214	8,274,463	321	4.310

a/ Includes oil and condensate. Measurement in millions of barrels.

b/ Measurement in trillion cubic feet.

Source: U.S. Department of the Interior, Minerals Management Service, "Mineral Revenues: The 1988 Report on Receipts from Federal and Indian Leases" (1989).

Annual acreage leased usually corresponds to annual acreage offered. For example, during three years of the Reagan Administration's accelerated leasing program -- 1983, 1984, and 1988 -- acreage **offered** for leasing jumped dramatically to 121.0, 154.4, and 158.0 million acres, respectively. Correspondingly, acreage **actually leased** also jumped dramatically during these years, to 6.6, 7.5, and 8.3 million acres, respectively.

Because production does not begin until 5 to 8 years after the leasing of a tract, it is only now possible to begin to evaluate the extent to which the Reagan Administration's accelerated leasing program, which began in June 1982, may or may not have led to production increases. Current production data does reflect, to some extent, on the earlier Carter Administration leasing program. Table 1 shows that, although OCS **oil** production increased slightly between 1980 and 1985, since that time production has declined to 321 million barrels in 1988, a level considerably lower than the 419 million barrels produced in 1971. OCS **gas** production, on the other hand, reached a high of 4.850 trillion cubic feet (tcf) in 1981, and has shown a slight declining trend to 4.310 tcf in 1988.

Revenues. OCS revenues are an important source of income to the Federal Government, and during the high years (1979 through 1984) represented the second largest source, after Federal income taxes. OCS revenues take three forms: bonuses, royalties, and rents. Bonuses are paid "up-front" for a lease, and royalties are paid on oil and gas produced from a lease. A rent is the yearly amount paid to hold a lease when no production has occurred. Table 2 shows the bonuses, royalties, and rents from the Federal OCS leasing program from 1970 through 1988.

Table 2 shows that the high year for bonus revenues was 1981 ($6.6 billion) -- the year before the Reagan Administration's accelerated leasing program took effect. Probable causes of the high bonuses in 1981 were the increased acreage leased (over 1 million acres more than the previous year) and expectations of higher future world oil prices. Other possible factors, however, could have been that the slower pace of the leasing program at this time did not produce an excess supply of leasable tracts, and the then higher expectations regarding the undiscovered reserves in many areas (such as Gulf of Alaska, East Coast, and Florida). Table 2 shows that since 1981, bonuses have exhibited a downward trend.

Royalties, on the other hand, have exhibited an increasing trend through the 1970s to a high of $4.0 billion in 1984. Since 1984, however, royalties have declined downward to $2.1 billion in 1988. Today, largely because of even more rapidly downward trending bonuses since 1984, royalties as a percentage of total OCS revenues have increased. In 1988 royalties were 62.0 % of total revenues, in contrast to 1979 when they represented 22.9% of the total.

Since current royalties are not based on leasing, but rather on production which begins 5 to 8 years later and continues for 20 to 30 years thereafter, their use as a measure of the success of the current 5-year leasing program is not possible until after the program expires. Bonuses, which are paid at the beginning of the leasing process, may be an indicator of the program, but equally importantly a reflection of a variety of factors affecting the current leasing program. These factors include world oil price, expected cost of extraction, the technical capability of

companies to increase offshore acreage, the bidding system, non-OCS alternatives available to oil companies, and the extent to which environmental concerns are estimated to increase costs.

TABLE 2. Revenues from the Federal OCS Leasing Program, Calendar Year 1970 through 1988
($ in billions)

Year	Bonus	Royalty 1/	Rent 2/	Total
1970	0.945	0.285	0.009	1.239
1971	0.096	0.352	0.008	0.456
1972	2.251	0.366	0.008	2.625
1973	3.082	0.404	0.009	3.495
1974	5.023	0.562	0.014	5.599
1975	1.088	0.618	0.018	1.723
1976	2.243	0.702	0.023	2.968
1977	1.568	0.921	0.020	2.510
1978	1.767	1.152	0.022	2.941
1979	5.079	1.517	0.020	6.616
1980	4.205	2.139	0.019	6.363
1981	6.653	3.291	0.022	9.966
1982	3.987	3.817	0.020	7.825
1983	5.749	3.459	0.032	9.240
1984	4.037	3.968	0.036	8.040
1985	1.539	3.643	0.062	5.244
1986	0.187	2.565	0.053	2.805
1987	0.497	2.372	0.075	2.944
1988	1.224	2.095	0.061	3.380
TOTAL	50.483	29.023	0.402	79.908

1/ Includes "Annual Oil and Gas Royalties," "Annual Minimum Royalties," and "Annual Other Mineral Revenues," as taken from Table 16 in source document. "Annual Other Mineral Revenues" includes royalties for gas lost, gasoline and LPG, oil lost, salt, and sulphur. For the period 1970-1987, these revenues amounted to $266,822,256 (for a yearly average of $14,823,459).

2/ Includes "Annual Shut-in Gas Payments" for the years 1970-1979, as taken from Table 16 of source documents.

Source:

(1) U.S. Department of the Interior, Minerals Management Service, "Mineral Revenues: Federal Offshore Statistics: 1988" (1989). See Table 16.

Incentives for OCS Development

Since the oil crisis of 1973, succeeding Presidents have declared policies for accelerating the development of OCS energy resources. The Reagan Administration attempted to accelerate this development, in particular through the previous 5-year leasing plan (mid-1982 through mid-1987). A key element of this acceleration was "areawide" leasing, where whole OCS planning regions, not just the portions where industry expressed the most interest, were offered for leasing. Another important element was increasing the number of lease sales held each year, and opening up "frontier" regions of "high resource potential."

In an effort to counter the trend of increased dependence on foreign oil supplies, President Reagan in June 1986 announced an initiative to develop the Nation's domestic energy resources (both offshore and inshore). In October 1986, the Interior Department proposed five incentives to rekindle industry interest in OCS exploration. The incentives, which were to be considered separately or in combination, were: lowering the minimum bid level ($25 per acre instead of $150 per acre); using some form of work commitment; employing variable rentals; offering larger sized tracts; and deferring payment of 80% of the bonus payment.

The Interior Department started using lower minimum bidding of $25 per acre for deepwater and other tracts, with the April 1987 Central Gulf sale #110. Also in recent years, the Interior Department has been using longer lease terms for deepwater tracts, and lower royalty rates.

Taxation, Fees, and Import Restrictions: Other Possible Incentives and Disincentives

In the 99th Congress, the Tax Reform Act of 1986 (P.L. 99-514) affected the oil and gas industry, including its OCS activities, in various ways. Generally, the industry has experienced the lowering of tax rates in combination with limitation of benefits derived from investment tax credits and depreciation. These limitations affect most capital intensive parts of the industry (such as downstream processing, or the more costly OCS drilling). As an initial practical example of the effect of these limitations, it appears that some OCS leases have been relinquished early because of the tax advantages gained. However, in one way, the Act favored the oil industry through exempting it from a general crackdown on tax shelters: passive losses generated by exploration investments in limited partnerships are still permissible. The net effect of all these offsetting changes on the oil industry is probably small.

In the 100th Congress, a provision attached to trade legislation (P.L. 100-418) amended the Internal Revenue Code to repeal the windfall profits tax on domestic crude oil.

In the 101st Congress, the 1990 Budget Reconciliation Act (P.L. 101-239, Section 7505) required the payment of a $0.05 fee on produced oil, to be deposited in a $1 billion Oil Spill Liability Trust Fund, originally established at lower liability limits and fees on produced oil through the 1986 Budget Reconciliation Act. The oil spill liability legislation (H.R. 1465, S. 686) contains coordinating provisions for the Oil Spill Liability Trust Fund: Title III of OCSLAA would be repealed, and monies

remaining in the Offshore Oil Pollution Compensation Fund would be transferred to the Oil Spill Liability Trust Fund.

Other bills in the 101st Congress (H.R. 658, H.R. 664, H.R. 760, H.R. 997, H.R. 2393, H.R. 3031, S. 234, and S. 449) would also affect tax incentives for the oil and gas industry, including OCS activities.

Issues for the 101st Congress

There are a number of issues relating to the Federal OCS leasing program that have developed in the 101st Congress. These issues include lease sales scheduled in the current 5-year plan and development of the next plan, OCS moratoria, "Buy American" provisions, OCS air quality, and OCS leasing consistency.

Current Leasing Plan

In July 1987, the Department of the Interior finalized the current leasing plan for the years January 1988 through June 1992. Shortly afterwards, environmental groups and five States (California, Florida, Massachusetts, Oregon, and Washington) challenged the 5-year plan because they believed it did not adequately balance the potential for adverse coastal impacts with the potential for oil and gas discoveries. Collectively, the various lawsuits alleged that the program violated NEPA, Section 18 of the OCSLAA, and Section 111 of P.L. 99-591. The cases were consolidated in January 1988, and a decision (Docket no. 87-1432, *Natural Resources Defense Council, et al.* v. *Donald P. Hodel*) was handed down in December 1988 by the United States Court of Appeals for the District of Columbia. The decision ordered a further review of the program's impacts on wildlife (specifically on whales, salmon, and other migratory species), but did not delay any lease sales covered by the program.

Table 3 is a listing of the 36 lease sales currently in the plan.

The plan continues with the "areawide" approach, although it modifies this approach to defer certain areas in environmentally sensitive portions of an OCS planning area. There are deferral areas, which total 46% of the OCS, in the Alaskan, Atlantic, Gulf of Mexico, and Pacific planning areas.

Also, the current plan seeks to adjust the pace of the leasing program to the downward trend in oil prices, through scheduling fewer sales than the previous 5-year plan. The current plan calls for 36 (originally 37) sales, including 8 transferred from the previous plan, and more time between the sales in a region. There are now 10 frontier sales in the new plan, which will be held only if industry expresses sufficient interest. Originally there were 11, but sale #140 (scheduled for June 1992) off the Straits of Florida, was cancelled in March 1988.

The current plan envisions a 3-year, rather than the previous plan's 2-year, cycle between sales in Alaskan, Atlantic, and Pacific planning regions. In two planning areas -- the Central and Western Gulf of Mexico -- sales will take place every year, as is currently the case in these OCS regions.

The next 5-year plan, which will cover the period mid-1992 through mid-1997, is in the initial planning stages at MMS. The first draft has been delayed pending the release of the Department of Energy's draft national energy strategy in April and the President's recommendations based on the OCS Task Force report.

TABLE 3: Five-Year OCS Oil and Gas Leasing Schedule

Region	Sale No.	Actual or Scheduled Date of Sale
Beaufort Sea	97*	3/88
Central Gulf	113	3/88
Chukchi Sea	109*	5/88
Western Gulf	115	8/88
Eastern Gulf	116 Part 1	11/88
North Atlantic	96*	on hold
Central Gulf	118	3/89
Western Gulf	122	8/89
Northern California	91*	on hold
Southern California	95*	on hold
Supplemental	SU1	12/90
Central Gulf	123	3/90
Western Gulf	125	8/90
Mid-Atlantic	121#	7/91
Supplemental	SU2	9/91
North Aleutian Basin	117	under review
Navarin Basin	107*	1/91
Beaufort Sea	124	3/91
Central Gulf	131	3/91
Central California	119	on hold
Chukchi Sea	126	7/91
Western Gulf	135	8/91
Eastern Gulf	137	11/91
Eastern Gulf	116 Part 2	on hold
St. George Basin	101*#	1/92
Gulf of Alaska	114#	3/92
Central Gulf	139	3/92
Washington-Oregon	132#	4/92
North Atlantic	134#	6/92
Northern California	128	on hold
South Atlantic	108*#	12/92
Hope Basin	133#	2/93
Southern California	138	deferred
Shumagin	129#	deferred
Norton Basin	120#	9/93
Navarin Basin	130#	2/94

.....

* Indicates lease sales carried over from previous 5-year plan.

\# Frontier sale which will be held only if there is enough industry interest as indicated in the Call for Information and Nominations.

OCS Moratoria

In recent years Congress has imposed various one-year leasing moratoria for defined areas within certain leasing regions. The imposition of moratoria has occurred because many coastal States and environmental groups have convinced Congress that their input into the planning process has not been adequately considered in the drive for increased offshore oil and gas production, and that leasing tracts in environmentally sensitive areas might lead to activities that could cause irreversible damage.

Congress has enacted moratoria (through provisions in the Interior Department appropriations enactments) for each fiscal years 1982 through 1990. The specific areas covered by the moratoria have varied from year to year: New England (FY84 through FY90), California (FY82 through FY85, FY89 through FY90), Eastern Gulf (FY84, FY89, FY90), Mid-Atlantic (FY83, FY90), Alaska's North Aleutian Basin (FY90). Generally, however, the total acreage banned to leasing activity has increased every subsequent year: from 736,000 acres in four Northern California basins in FY82, to over 84,000,000 acres off California, New England, Florida's gulf coast, the Mid-Atlantic, and Alaska's North Aleutian Basin in FY90.

In his FY1990 budget, President Bush indefinitely postponed leasing in sale areas #91 off Northern California, #95 off Southern California, and #116 off Southern Florida until a Presidential task force reviews and resolves environmental concerns involving these three environmentally sensitive areas. Following scheduled public workshops in California and Florida, and submission of a background report from the National Academy of Sciences, the Presidential task force submitted its report in January 1990. The White House, however, has not released the report, which allegedly contains options and not recommendations.

The President may also have to make a decision on whether to delay Pacific Norwest OCS leasing. A Task Force consisting of the States of Washington and Oregon, Tribal governments, and the MMS, adopted a resolution that would delay leasing for 7 years until the completion of environmental and socio-economic studies. The Interior Department will delay approving or disapproving the resolution until the President makes his decision on leasing off California and south Florida.

Relation of the Exxon Valdez Spill to the OCS Leasing Program. The oil spill of the *Exxon Valdez* resulted from the spilling of tankered oil from onshore development in Alaska's Beaufort area, *not* oil from domestic OCS oil development. Domestically produced OCS oil normally involves far less tankering than either onshore Alaskan production or imported oil, as most domestic OCS producing sources now transfer oil across marine areas through buried pipelines. The environmental risk from buried pipeline transportation has proven far less than that from tankering.

Of greater risk in OCS related activity is the possibility of a blowout during the exploration phase, as occurred in 1969 Santa Barbara spill. Since that time, however, blowout prevention technology has greatly improved, and the environmental record of the OCS development industry improved in a corresponding manner.

Many coastal and environmental interests believe that any marine oil activity, whether it be tankering non-OCS oil from abroad or the Beaufort area in Alaska, or

domestic OCS oil extraction, poses a potential threat to the environment. The Interior Department's Minerals Management Service, on the other hand, points out that since 1969, the environmental record of the OCS industry has been very good; moreover, the rate of oil spills is greater from tankering of non-OCS-produced oil than from domestically produced OCS oil.

Whether in response to the *Exxon Valdez* spill, or a continuing escalation of past trends of ever larger moratoria areas, or both, Congress through the FY1990 Interior Department appropriations enactment has legislated larger moratoria areas and more OCS exploration/development restrictions than ever before. Furthermore, it specifically has linked the tanker spill to requirements for environmental impact studies (For more information on the *Exxon Valdez* spill and oil spill liability legislation, please refer to IB's 89075 and 89082).

FY1990 Interior Department Appropriations Legislation. Following is a listing of the moratoria in millions of acres for FY1990, in the various planning areas:

LEASING REGION	ACREAGE
N. Aleutian Basin	32.5
Eastern Gulf	21.1
North Atlantic	11.0
Mid-Atlantic	9.9
Southern California	6.7
Central California	1.7
Northern California	1.1
TOTAL	84.0

The FY1990 Interior Department appropriations legislation (P.L. 101-121) retains the moratoria areas and restrictions of the FY1989 Interior Department appropriations legislation (P.L. 100-446), and includes additional moratoria areas and restrictions. The FY1990 legislation retains moratoria areas in Northern California (sale #91), the Georges Bank (tracts in 400 meters of water depth in sale #96), Eastern Gulf (south of 26 degrees North Latitude, east of 86 degrees West Latitude); and continues to prevent the MMS from approving drilling permits for Eastern Gulf leases already in force.

Going beyond the previous year's legislation, the FY1990 legislation imposes moratoria in Southern California (sale #95) and Central California (sale #119), and prohibits the publishing of draft EISs regarding California sales #91, #95, and #119 until 5 months after the Presidential Task Force releases its report, and prohibits the publishing of the final EIS for these California sales during FY1990. The legislation imposes a moratorium off Alaska's North Aleutian Basin planning area and prevents the MMS from approving drilling permits for leases already in force in the North Aleutian planning area. The legislation also imposes a moratorium along the Atlantic seaboard, from Rhode Island to Maryland.

Finally, the FY1990 legislation requires the Secretary of the Interior to conduct three studies related to the North Aleutian Basin, with the results reported to the appropriations committees by Mar. 1, 1991. The first will address the impact of the *Exxon Valdez* oil spill on the Prince William Sound fishery and address the potential danger to the Bristol Bay (in the North Aleutian Basin) fishery from a similar spill. This study will be conducted by the Interior Department's Fish and Wildlife Service, in cooperation with the National Oceanic and Atmospheric Administration and the State of Alaska. The second study will assess the adequacy of the contingency planning for combating oil spills in the North Aleutian Basin. The third study will examine the possibility of repurchasing leases already held in the North Aleutian Basin. Additionally, the legislation includes $1 million, to match the same amount from the American Petroleum Institute, for an oil spill research initiative to be conducted by the Minerals Management Service.

There are also a number of bills (H.R. 722, H.R. 734, H.R. 2029, H.R. 2945, H.R. 3751, H.R. 3861, S. 2447, S. 49) in the 101st Congress which would impose a permanent lease ban in specific areas of the OCS. The most extensive of these permanent bans is found in H.R. 3751, which would impose a ban in most of the OCS except the Central and Western Gulf. A hearing has been held on one of these bills -- H.R. 2945, which would prohibit leasing activity off southwest Florida. Hearings are scheduled for H.R. 3751 on May 11 (Seattle), May 17 (Portland, Oregon), and May 18 (Wilmington, North Carolina).

Consistency

Many coastal States are concerned that their input into the Federal OCS leasing process is inadequately considered, and that requiring a lease sale to be "consistent" with a State's coastal zone management (CZM) plan, through an amendment to the Coastal Zone Management Act (CZMA), would assure protection of their interests. They argue that other statutory provisions, such as those contained in the OCS Lands Act and the National Environmental Policy Act (NEPA), do not provide the necessary leverage for consideration of State concerns. These coastal States maintain that since the lease sale process determines which tracts can be developed and sets the framework for future OCS exploration and development/production activities, OCS leasing should be subject to the consistency requirements of the CZMA.

The Interior Department and the oil industry, on the other hand, argue that a lease sale does not directly affect the coastal zone, but that only exploration and development/production activities of the post-lease phase do. Therefore, they argue, lease sales should not be subject to CZMA consistency requirements. They also believe that the OCS Lands Act (Sections 18 and 19) and NEPA (EIS developed for every lease sale) contain adequate mechanisms for State input into the Federal OCS leasing process. According to this viewpoint, while post-lease activities, such as exploration and development/production, can affect the coastal zone, lease sales do not. They also indicate that development/production occurs on only a small percentage of leased tracts (generally about 1 in 10).

The CZMA contains provisions that require that various activities affecting the coastal zone are required to be "consistent" with a State's CZM plan. Section 307(c)(3)(b) specifically requires that in the post-lease phase of OCS activity, exploration and development/production plans be certified to be consistent with a

State's C2M plan. A question arose in past years as to whether the **lease** phase was subject to a different consistency requirement, contained in Section 307(c)(1), as "directly affecting" the coastal zone. In 1984, the U.S. Supreme Court ruled that a Federal OCS lease sale does *not* "directly affect" the coastal zone within the meaning of Section 307(c)(1) and therefore is not required to be consistent with a State CZM plan.

In the 101st Congress, a number of bills would "undo" the 1984 U.S. Supreme Court ruling and require that a lease sale be consistent with a State CZM plan. The principal bills on the House side are H.R. 4030 (Section 307 (d)(2)), H.R. 4450, and H.R. 543; while on the Senate side the principal bills are S. 726 and S. 1189.

Air Quality

The debate over the OCS air quality has focused on whether or not the Interior Department regulations and lease conditions are adequate for insuring that OCS activities will not interfere with the attainment and maintenance of all Federal and State ambient air quality standards. The issue is largely a regional one for southern California. In this region, the South Coast Air Basin has critical air pollution problems, and is currently in nonattainment for four major air pollutants. The controversy has focused on exploration/production plans for expanding OCS activities in the Santa Barbara Channel.

Statutory provisions found in both the OCS Lands Act (Sections 5(a)(8) and 25) and the CZMA (Sections 307(c)(3) and 307(f)) affect the regulation of air quality on the OCS.

In the 101st Congress, provisions in the Senate Clean Air Act Amendments (S. 1630) would require the Interior Secretary, after obtaining written concurrence from the EPA Administrator, to promulgate regulations to reduce air pollutants from OCS activities off California; establish a fund, financed by fees from OCS operators, to acquire air emission offsets; and require the Interior Secretary to coordinate with the EPA Administrator on OCS air pollution control regulations outside California. House Clean Air Act Amendments (H.R. 3030) contain no provisions regarding OCS air quality.

Buy American

While the decline in world oil prices has resulted in the contraction of OCS activity, several industries including steel still look to offshore oil and gas development as a potential major source of economic activity. Often, however, non-American-materials and parts for OCS oil and gas exploration and development undercut American producers. At issue is whether or not "Buy American" provisions would hinder or help the OCS oil industry, attendant industry, and localities.

The Interior Department has estimated that construction of one platform requires up to 70,000 tons of steel, provides more than 1,300 jobs, and pumps hundreds of millions of dollars into the domestic economy. To a large extent, U.S. steel and steel fabrication firms have been shut out of the platform construction market since 1982, with many recent West Coast contracts going to Korea and Japan.

For this reason, some local areas see "Buy American" provisions for OCS structures as helping to provide employment opportunity for certain localities and industries.

The OCS development industry is generally opposed to "Buy American" provisions. While the industry acknowledges that in some instances a protectionist law could aid local industry, it maintains that such legislation would harm the U.S. oil industry as a whole. As an example, in the highly publicized 1985 bidding for construction of a California offshore platform, a non-American bid came in for $100 million less than the closest American bid. A U.S. producer indicated that the $100 million was the difference between profit and loss, and that if the platform bid had not come in at the lower figure, the field would not have been developed.

The Reagan Administration objected to "Buy American" provisions because it believed they would delay or defer exploration and production of domestic OCS fields, and hinder national energy production. That Administration was also philosophically opposed to protectionism in "Buy American" provisions.

In the 100th Congress, neither the FY1988 continuing appropriations legislation (P.L. 100-202) nor the FY1989 Interior Department appropriations legislation (P.L. 100-446) contained a "Buy American" provision. In the 101st Congress, the FY1990 Interior Department appropriations legislation did not contain a "Buy American" provision. As in past appropriation bills, conferees dropped House language that would have required that at least half of the offshore oil rigs be constructed by American labor with American-made materials.

LEGISLATION

Interior Department Appropriations Legislation

P.L. 101-121, H.R. 2788

FY1990 Interior Department appropriations legislation. Introduced and reported (H.Rept. 101-120) June 26, 1989. Considered in and passed House July 12, 1989. Reported (S.Rept. 101-85) to Senate July 25, 1989. Considered in and passed Senate July 26, 1989. Conference report (H.Rept. 101-264) filed Oct. 2, 1989. Signed into law Oct. 24, 1989.

OCS Air Quality

H.R. 3030 (Dingell), S. 1630 (Baucus)

Senate bill requires the Interior Secretary, after obtaining written concurrence from the EPA Administrator, to establish requirements to control air pollution from OCS sources. H.R. 3030 introduced July 27, 1989; referred to Committee on Energy and Commerce. Ordered to be reported to House Apr. 5, 1990. S. 1630 introduced Sept. 14, 1989; referred to Committee on Environment and Public Works. Reported (S.Rept. 101-228) Dec. 20, 1989. Passed Senate Apr. 3, 1990.

OCS Leasing Restrictions, Other Than Appropriations Legislation

H.R. 48 (Boxer)
Establishes California ocean sanctuary, prohibits OCS leasing within. Introduced Jan. 3, 1989; referred to Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries.

H.R. 722 (Courter)
Imposes a 10-year moratorium on oil and gas leasing off New Jersey. Introduced Jan. 31, 1989; referred to Committee on Interior and Insular Affairs.

H.R. 734 (Lagomarsino)
Prohibits issuing OCS leases off California. Introduced Jan. 31, 1989; referred to Committee on Interior and Insular Affairs.

H.R. 1883 (Campbell)
Amends the OCSLAA to allow for State disapproval of OCS leasing decisions. Introduced Apr. 13, 1989; referred to Committee on Interior and Insular Affairs.

H.R. 2029 (DeFazio)
Prohibits the issuing OCS leases off Oregon and Washington. Introduced Apr. 18, 1989; referred to Committee on Interior and Insular Affairs.

H.R. 2945 (Ireland)
Prohibits issuing of oil and gas leases on OCS off Southwest Florida. Introduced July 20, 1989; referred to Committee on Interior and Insular Affairs. Hearings held in Key West, Florida, Oct. 14, 1989.

H.R. 3751 (Boxer)
Permanently bans most OCS leasing areas except in Central/Western Gulf. Introduced Nov. 20, 1989; referred to Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

H.R. 3861 (Jones)
Prohibits OCS activities off North Carolina until adequate scientific information is available. Introduced Jan. 23, 1990; jointly referred to Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

S. 49 (Cranston)
Prohibits OCS activities off California. Introduced Jan. 25, 1989; referred to Committee on Environment and Public Works.

S. 2447 (Graham)
Establishes the Florida Keys national Marine Sanctuary. Prohibits commercial vessel traffic and OCS activities in the Sanctuary. Introduced Mar. 7, 1990; referred to Committee on Commerce, Science, and Transportation.

Consistency

H.R. 543 (Panetta), H.R. 4030 (Jones), H.R. 4450 (Hertel), S. 726 (Kerry), S. 1189 (Kerry)

Amends CZMA to require that Federal activities directly affecting the coastal zone be consistent with approved State management programs. H.R 543 introduced Jan. 1, 1989; referred to Committee on Merchant Marine and Fisheries. H.R. 4030 (Section 307(d)2) introduced Feb. 21, 1990; referred to Committee on Merchant Marine and Fisheries. H.R. 4450 introduced Apr. 4, 1990; referred to Committee on Merchant Marine and Fisheries. S. 726 introduced Apr. 6, 1989; referred to Committee on Commerce, Science, and Transportation. S. 1189 (see Section 6) introduced June 14, 1989; referred to Committee on Commerce, Science, and Transportation.

Bills Relating to Taxation and Fees

P.L. 101-239, H.R. 3299 (Panetta)

FY90 budget reconciliation legislation. Required $ 0.05 fee on produced oil to be transferred to Oil Spill Liability Trust Fund. Introduced and reported (H.Rept. 101-247) Sept. 20, 1989. Considered in House Sept. 26-28, Oct. 3-5; passed House Oct. 5. Considered in Senate Oct. 13, and passed Senate, amended, in lieu of S. 1750. Conference report (H.Rept. 101-386) filed Nov. 21, 1989. Signed into law Dec. 19, 1989.

Buy American

P.L. 101-121, H.R. 2788

FY90 Interior Department appropriations legislation. House version had "Buy American" provision, but dropped in conference (See above for legislative history).

Oil Spill Liability Legislation

H.R. 1465 (Jones), S. 686 (Mitchell)

Establishes a liability limit for tank vessels (H.R. 1465), and on operators of offshore facilities (S. 686). Repeals Title III of OCSLAA, and transfers any remaining amounts in the Offshore Oil Pollution Compensation Fund to the Oil Spill Liability Trust Fund, which would be funded by a fee of $0.05 per barrel (see P.L. 101-239). In Senate bill only, Section 602 establishes, for common hydrocarbon areas underlying Federal/State offshore jurisdictions, a competitive development requirement to eliminate economic waste and environmental harm; and authorizes appropriations for Louisiana for drainage for specified offshore tracts. H.R. 1465 introduced Mar. 16, 1989. Jointly referred to Committee on Public Works and Transportation; Committee on Merchant Marine and Fisheries; Committee on Science, Space, and Technology; Committee on Interior and Insular Affairs; and Committee on Foreign Affairs. Passed House Nov. 9, 1989. Passed Senate, amended (with inserted text of S. 686) Nov. 19, 1989. S. 686 introduced Apr. 4, 1989; referred to Committee on Environment and Public Works. Reported (S.Rept. 101-94) July 28, 1989. Passed Senate Aug. 4, 1989. Text inserted in H.R. 1465 Nov. 19, 1989.

Attachment 3

The Chore of 'Selling' Offshore Oil Drilling

Williamson Roams Widely Seeking Support

5-16-90

By John Lancaster
Washington Post Staff Writer

Speaking to British oil industry executives in London last month, the Interior Department's chief offshore oil regulator offered a candid appraisal of the challenges facing oil companies that want to drill in U.S. coastal waters.

"The offshore oil and gas industry . . . is under constant siege by environmental groups and residents of many coastal communities," said Barry Williamson, director of the Minerals Management Service. "Somehow, the admirable environmental and safety record of this industry has failed to make its imprint on public perceptions."

Williamson hopes to change all that. As head of the Interior Department bureau responsible for managing oil drilling on the nation's 1.4 billion-acre outer continental shelf, the 32-year-old former Texas wildcatter has inherited the formidable task of selling offshore oil development to lawmakers and the public at a time when last year's Exxon Valdez oil spill is still a recent memory.

Since coming to Interior last year from the Energy Department, Williamson has roamed the continent like a politician in search of votes, meeting with citizen's groups in California, sitting down with fishermen in Alaska—even inviting a representative of the radical environmental group Greenpeace to a brown bag lunch.

"I think it's time we put an environmental ethic back in our business," Williamson said in a recent interview. "It doesn't mean we have to shut industry down, but we do need to clean it up."

Such environmentally friendly language marks a substantial change from the days of James G. Watt, the Reagan-era interior secretary whose plans to open the entire shelf to oil rigs triggered a series of congressional drilling bans that have shut down most offshore activity outside the Gulf of Mexico.

In an effort to break that deadlock, Williamson has promised an end to leasing in "environmentally sensitive" areas, proposing a "site-specific" approach that will focus oil development on geologic basins of high energy potential.

President Bush is expected to offer a glimpse of that new strategy when he announces his decision, expected this month, on whether to proceed with controversial lease sales off the Florida Keys, southern California and northern California.

But if Williamson is selling a new image for the Minerals Management Service and the offshore drilling program, not everyone is buying it.

Environmentalists have questioned whether the site-specific approach really marks a significant break with the past; former Interior Secretary Donald Hodel used much the same language in announcing his new leasing program in 1987. They also have challenged repeated assertions by Williamson and other officials that offshore development will cut down on the likelihood of tanker spills, since much of the oil pumped from the shelf would eventually find its way into ships.

Adding to the suspicion among environmentalists that Williamson remains wedded to the industry he is supposed to regulate is the agency's recent intervention on behalf of oil companies in a dispute with the U.S. Fish and Wildlife Service over drilling plans on Alaska's North Slope.

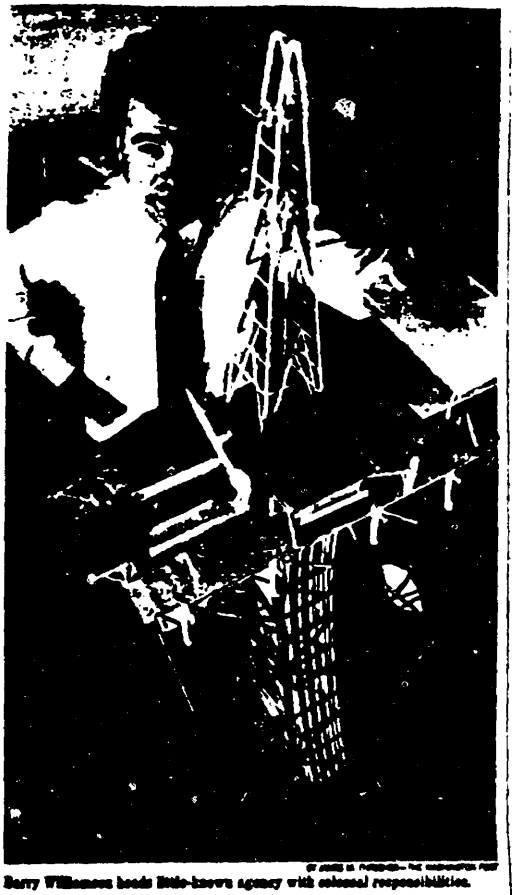
Williamson's task has been complicated by his background. An Arkansas native who worked as an attorney before trying his luck as an independent oil producer in 1985, Williamson is the son-in-law of Bobby Holt, a prominent Texas Republican and wildcatter who co-chaired Bush's inaugural committee.

"We don't have a track record on him . . . [but] he's definitely from the oil patch," said Andrew C. Palmer, director of the Washington office of the American Oceans Campaign and one of several environmentalists who recently had lunch with Williamson.

After a brief stint as the director of the Energy Department's office of policy and planning, Williamson was appointed to the director's job at the MMS, where he found himself at the helm of a little-known government agency with colossal responsibilities. In addition to the offshore program, MMS collects the royalties from oil, gas and coal-mining activities on federal lands. Revenues from offshore areas alone average about $3 billion per year—an amount surpassed only by the Internal Revenue Service and U.S. Customs, according to a spokesman.

In an effort to enhance the agency's credibility as a tough regulator, Williamson has stepped up unannounced inspections of offshore oil rigs in the Gulf and off southern California, and he also backed a recent proposal to delay leasing off the coasts of Oregon and Washington pending further studies. (Interior Secretary Manuel Lujan Jr. still must approve the delay.)

Williamson's public relations efforts have included the hiring of a new director of external affairs to act as a liaison to local officials, environmentalists and others with an interest in offshore oil. "It would be hard to find a constituency affected by our program that [Williamson] has not spent personal time with," said Ed Cassidy, the deputy MMS director.



Barry Williamson heads little-known agency with colossal responsibilities.

While Williamson's efforts have won plaudits from some officials in coastal states, many remain skeptical of the agency's commitment to environmental protection. Late last year, MMS was among several agencies that objected to a proposed federal agreement strengthening wetlands protection; more recently, MMS objected to an opinion by Fish and Wildlife biologists that raised questions about a controversial proposal to build a causeway to an oil rig in the Beaufort Sea off Alaska's North Slope.

"MMS made a concerted attempt to try to influence Fish and Wildlife to be in favor of the causeway," said a Fish and Wildlife official who asked not to be identified. "They were trying to roll over us."

Williamson acknowledged the difference of opinion on the causeway project, but he attributed it to "some legitimate disagreements on science." He added, "I think it's good that people disagree."

Environmentalists are not the only ones to criticize Williamson's performance. A recent editorial in the Oil and Gas Journal asserted that the ex-wildcatter is "concerned more with politics than logic," warning that his site-specific approach will mean "slim pickings" for offshore oil drillers.

But Williamson considers such criticism a measure of his success. "If I do my job in a way that makes everyone equally mad at me," he said, "then I've probably done a good job."

TESTIMONY
OF
TIMOTHY R. E. KEENEY
DIRECTOR, OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
NATIONAL OCEAN SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
AND THE
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT
COMMITTEE ON MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

JUNE 7, 1990

Mr. Chairman and Members of the Subcommittees:

I am Tim Keeney, Director of the Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atmospheric Administration's (NOAA), U.S. Department of Commerce.

I am pleased to be here today to discuss the progress we are making in the designation of new national marine sanctuaries (NMS). I will also highlight proposed administrative improvements which NOAA is considering to expedite and simplify the sanctuary designation process.

The Administration supports the National Marine Sanctuary Program. While the process of designating new sanctuaries is taking longer than expected, we believe we are making significant progress.

In response to the significant increase in new site designations mandated by the 1988 Amendments to Title III of the Marine Protection, Research, and Sanctuaries Act (MPRSA), NOAA has increased the staff of its Marine and Estuarine Management Division (MEMD) from 14 to 27 people. MEMD administers both the National Marine Sanctuary Program and National Estuarine Reserve Research System, which is authorized by section 315 of the Coastal Zone Management Act.

NOAA assigned 10 new staffers to work on the designation and oversight of new sanctuaries and estuarine reserves. Three were hired to provide technical support for research, education and cultural resources at the sites. Over the next few months, we expect to hire three additional staff, including a maritime historian, an education projects manager, and an additional person to work on new sanctuary and reserve designations.

THE PACE OF NEW DESIGNATIONS

The 1988 Amendments to Title III of MPRSA mandated NOAA to designate four new sanctuaries, prepare prospectuses for two new sanctuaries, and conduct studies on four potential sanctuary sites within specific timeframes. Although a number of the statutory deadlines have not been met, it has not been through NOAA's lack of will or effort. We have completed considerable work in a very short period of time and at a more rapid pace than in the past. Several major

factors have affected the pace of the designation process. These factors include:

1. Hiring and Training New Staff -- While MEMD's staff has more than doubled over the past 18 months, the new staffers had no previous training in the designation of marine sanctuaries and estuarine reserves. Therefore, the new staffers had to be trained on the job. MEMD's new employees are becoming more proficient in their work.

2. Working With a New Process -- The sanctuaries mandated by the 1988 Amendments are the first to be designated using the process required by the 1984 reauthorization of Title III. As a result, NOAA has been developing designation procedures at the same time that it is moving to designate new sanctuaries. We are improving the process as we go, which will be helpful in expediting future designations.

3. New Designation Process Requires More Work -- Prior to the designation of the Cordell Bank National Marine Sanctuary in 1989, the designation process stipulated that only an environmental impact statement (EIS) and regulations be developed prior to designation. This process usually took three to five years. The site management plan was developed after the site designation and no Congressional prospectus was required.

However, the process established by the 1984 Amendments required that the EIS, regulations, management plan and Congressional prospectus be prepared prior to designation. Further, the 1988 Amendments limited the time for completion of these documents to two-and-a-half years.

4. Complexity of the New Sites -- As the time available for designating sites has been reduced, the complexity of issues we are addressing has grown. For example:

- All the near-shore site designations are addressing the issue of protecting water quality from both sea- and land-based sources of pollution. This has required NOAA to enter into discussions with other Federal agencies, and state, regional and local agencies to determine procedures for assuring water quality protection without placing undue burden on permit applicants, or duplicating existing processes. Monterey Bay and Northern Puget Sound are prime examples. At the Northern Puget Sound site, there are numerous state agencies, six local governments and 15 Native American tribes involved in the process. The Canadian Government has expressed an interest in participating in the process as well.

- Vessel traffic control is becoming a significant issue. In addressing this issue, we must assure needed regulation of both U.S. and foreign flag vessels. This involves working with the U.S. Coast Guard, and through them,

with the International Maritime Organization. Addressing thorny issues such as these is time consuming.

5. Many Statutes Affect the Pace of Designations -- In designating sanctuaries, NOAA has had to mesh the deadlines required by the MPRSA with the requirements of the National Environmental Policy Act (NEPA) and the Administrative Procedure Act (APA). Public comment periods under NEPA consume over three months. Because of the often controversial nature of sanctuary designations, NOAA has been required to provide the maximum opportunity for public comment. For example, rather than holding a single scoping meeting as required by NEPA, NOAA has held multiple scoping meetings as close to the sanctuary site as possible. Scoping meetings for four of the statutory sites were:

Monterey Bay -- January 23-26, 1989

Western Washington - April 10-13, 1989

Stellwagen Bank - June 13-16, 1989

Northern Puget Sound - November 8-18, 1989

6. NOAA's Two-Protected Area Programs Are Growing -- In addition to implementing the 1988 MPRSA Amendments, MEMD staff has been working on the designation of six new National Estuarine Research Reserves. We are also responsible for providing oversight of the 18 existing National Estuarine Research Reserves, and support for growing field operations at NOAA's eight designated marine sanctuaries.

6

EXPEDITING THE PROCESS

NOAA has been considering ways to expedite the designation process. Earlier this month, MEMD headquarters and field staff met in Washington, D.C., to chart the future course of the sanctuary program. We arrived at a number of proposals which we believe can help simplify and expedite the process. While the proposed changes may not help with all of the designations already in progress, they will aid in speeding up future designations. The proposed changes include:

1. Provide On-Site Liaison: When needed, an on-site liaison should be located near the proposed sanctuary to address local concerns, and seek local assistance in developing information needed for designation. NOAA has already begun to implement this concept. For the proposed sites in the State of Washington, NOAA hired a liaison in May 1990. The liaison is located at NOAA's Sand Point facility in Seattle. We are in the process of recruiting a manager for the proposed Monterey Bay sanctuary. The manager will be on location in NOAA's Coastal Ocean Applications Project facility in Monterey within the next few months. The liaison function is also being well served for the proposed Stellwagen Bank sanctuary by the cooperating agency in the Commonwealth of Massachusetts and support from NOAA's National Marine Fisheries Service Office in Gloucester.

2. Reduction of Redundant Information -- Much of the information required by the EIS, site management plan, regulations and Congressional prospectus is redundant. An MEMD working group is currently drafting proposals to streamline the process. This involves cross-referencing certain types of information and referring the reader to other portions of the document, rather than repeating the same information as is now the case. We will reduce this to one statement of the issue, with appropriate cross-references. This also will have the benefit of shortening designation documentation. This work can be done without statutory change.

We also believe the requirements of the Congressional prospectus can be met through the preparation of a good executive summary of the management plan and EIS. However, the contents of the prospectus are statutory and can only be changed through legislation.

3. Standardization of Designation Documents: The process can be shortened if there were designation documentation "templates" to follow. These are being prepared based on our experience with the new designations. NOAA has detailed a senior employee in OCRM to assure commonality across sanctuaries and to address the need to retrofit existing sanctuaries while not pulling existing staff from the ongoing designation process.

4. Simplifying the Process to Address Changing Regulatory Requirements -- In order to amend regulations and designation documentation for existing sanctuaries to address new resource management issues affecting sanctuary resources, the MPRSA requires NOAA to follow the designation process. This process can take a year or more even for a single issue. As a result, we are cautiously drafting documents for new sites, attempting to predict what future issues will require management. This requires considerable research into resource issues and the reservation of the right to possible future regulation. This need complicates and extends the designation process, and draws staff time away from current designation issues.

While it is important that we address such concerns, since we are planning for the future, if sanctuaries are to be designated in 2 1/2 years or less, much time has been lost through this complication. It would be helpful if there were a simpler process for modification of sanctuary rules. However, this would require a statutory change.

5. Earlier Coordination with Affected Agencies -- Our experience has shown that waiting until the draft EIS stage to address specific, controversial issues can cause undue delay. We are now working as early as possible with Federal, state and local governments, interest groups and the public to seek their advice on early drafts of chapters of the

designation documentation. While this process does not end controversy, it helps identify the issues upon which to focus the greatest management attention.

SANCTUARY SIZE, COMPATIBLE USES AND REGULATIONS

Sanctuary Size

Sanctuary size, regulations and compatible uses are all interrelated facets of sanctuary designation and management. The eight existing sanctuaries vary considerably in size, ranging from the 153-acre Fagatele Bay NMS in American Samoa and the one-square nautical mile U.S.S. MONITOR NMS to the 1,252 square nautical mile Channel Islands NMS. Title III of the MPRSA (section 301(b)) states that the primary objective of the program is "resource protection".

This poses the question: How much area is required to protect adequately the nationally significant resources for which the sanctuary is being designated? NOAA makes this determination based on the nature of the resources it is trying to protect. We essentially have two approaches: (1) a smaller, site-specific approach, such as was taken in the one-square nautical mile U.S.S. MONITOR National Marine Sanctuary off North Carolina; or (2) a broader ecosystem approach to management of natural resources, as is the Cordell Bank and Channel Islands Sanctuaries.

The pattern we are likely to follow is designating a series of core areas surrounded by buffer zones. We have

found that comprehensive protection of small sites is nearly impossible without addressing larger issues, such as water quality, which affect the health of these smaller systems. A good case in point is Looe Key NMS, which is being affected by outside forces.

Addressing reef degradation resulting from declining water quality requires a broader approach. Further, small sites, at least in part through the fame achieved by their designation, have achieved a "magnetic" quality that invites overuse. Small areas such as this provide few options for protection from large numbers of visitors when that area is the sole destination.

Recognizing the need to provide wider protection to sites such as these, Congressman Fascell and Senator Graham introduced **H.R. 3719** and **S. 2247** respectively, to designate the entire Florida reef tract as a unified marine sanctuary. We recently testified in support of H.R. 3719. Such a sanctuary could serve as a model of the core and buffer concept, with strict regulations in core areas, and more limited regulations elsewhere.

We believe this core and buffer approach is also the answer to the issue of manageability of a site and the size of a sanctuary needed for ecosystem management. Sanctuary designation and management need not be an "either/or" question; we should not assume that "smallness" is necessary

for "manageability" and that an "ecosystem" approach implies that a sanctuary is too large to "manage."

In core and buffer sanctuaries, our greatest level of management effort would be targeted to the areas of greatest need, such as the shallow reefs. But, NOAA's ability to respond to emergencies, to collect for injury to sanctuary resources, and to provide research and education programs would exist sanctuary-wide.

Compatibility of Uses and Protection

We believe this core and buffer concept also will help to address the concerns of users of sanctuary resources. Title III of the MPRSA (section 301(b)(5)) requires NOAA

> to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.

We support the multiple use concept and believe it can work. We will make every effort to sustain compatible uses and avoid unnecessary regulation, especially of those uses pre-existing at the time of designation. However, NOAA will prohibit or control certain types of activity when necessary to protect sanctuary resources.

Fisheries

Fishing, both commercial and recreational, is in most cases a pre-existing use of sanctuary resources. Pre-existing uses pursuant to valid leases, permits, licenses

or rights of subsistence use or access receive special treatment under the MPRSA, Title III (section 304(c)). We believe sanctuary resource protection and the maintenance of a productive fishery are not mutually exclusive goals.

The issuance of fishing regulations is mainly the province of the Regional Fishery Management Councils and the National Marine Fisheries Service. The sanctuary program has historically regulated fishing activities only on a very limited basis, and then, only after consultation with the Fishery Management Councils. Such consultations are required by section 304(a)(5) of Title III of the MPRSA.

Sanctuary fishing regulations usually prohibit a specific practice which is harmful to the purpose for which the sanctuary was established. For example, at the Gray's Reef NMS off the coast of Georgia, the use of bottom trawls is prohibited so that live bottom resources such as corals and sponges are not crushed. At the Key Largo and Looe Key sanctuaries, spearfishing is prohibited to restore the traditional reef ecosystem by allowing the return of the larger predators.

OCS Hydrocarbon Activity

OCS oil and gas development is an ocean-based activity which can be compatible with the protection of sanctuary resources. However, this compatibility depends upon the sub-sea location of the hydrocarbons, the nature of the

bottom (stability, proximity to a submarine canyon), currents in the area, and the proximity of developmental activities to sanctuary resources.

OCS hydrocarbon activity is prohibited in the three existing California sanctuaries, except pursuant to pre-existing leases in the Channel Islands NMS. The prohibition is regulatory in the Channel Islands and the Gulf of the Farallones, and statutory in Cordell Bank. Any proposed OCS hydrocarbon activity would be controlled in other existing sanctuaries as necessary to protect its resources.

Where appropriate, NOAA also recognizes in its site regulations the Department of the Interior's "no activity" zones, such as in the proposed Flower Garden Banks NMS. NOAA site regulations also recognize Department of the Interior guidance pertaining to the prohibition of OCS activity near submarine canyons such as the proposed Norfolk Canyon NMS.

We do not believe that OCS hydrocarbon activity and sanctuary designation must always be incompatible. However, we do believe that there must be an objective assessment of the potential harm to the marine ecosystem from these activities.

THE VALUE OF NON-GOVERNMENT INPUT

Another important facet of sanctuary designation and operation is the input of the public and non-governmental

organizations. Their views are crucial to the successful designation and operation of a sanctuary. During the ongoing designation of new sanctuaries, NOAA has enhanced opportunities for public involvement.

As noted previously, we have expanded the number of scoping meetings required under NEPA and are providing on-site liaisons for immediate public access. We rely heavily on public and private sector groups to help us identify issues and collect and prepare the documentation needed for sanctuary designation.

MECHANISMS FOR ADDRESSING DESIGNATIONS AND OPERATIONS ISSUES

We believe the issues arising from sanctuary designation can be adequately addressed during the designation process. However, there is room for improvement. We are currently evaluating a number of recommendations to be ready for the 1992 reauthorization of Title III. As part of this effort, NOAA is: (1) revising the National Marine Sanctuary Program Development Plan (PDP); and (2) conducting a three-part evaluation of the program.

Immediate Action -- Program Development Plan

We are currently evaluating the PDP and revising it to incorporate the directions set forth in the 1984 and 1988 Amendments. The PDP provides policy guidance on program missions and goals, the site nomination process, sanctuary

size, management and regulatory strategies, management plans, and the scope of the sanctuary program.

Extended Action -- Program Evaluation and Recommendations

A longer term effort is a three part review of the sanctuary program, including development of recommendations for program improvement. These include:

1. A Self-Evaluation by MEMD -- The purpose of this month's retreat, held May 1-3, 1990, was to conduct an internal evaluation, discuss and develop ideas for the future, and make recommendations for action and reauthorization. This internal review will be completed by July 1990.

2. An outside expert in the sanctuary field will be hired to conduct a review of the sanctuary program and its performance, and develop concepts for the future. We expect this process to begin in mid-summer.

3. A National Marine Sanctuary Ad Hoc Working Group will be established to review these reports, and provide input to NOAA on future directions. The composition of this panel is now being developed by NOAA with the assistance of the National Association of State and Land Grant Colleges.

16

CONCLUSION

NOAA is proud of the accomplishments of its National Marine Sanctuary Program. We are aware that there have been some deficiencies, but we are working to correct them. In the area of designation, we are hiring and training new staff and streamlining the designation process. In the area of coordination, NOAA is placing staff into the field during designation, and working with a broad spectrum of interested parties to assure they are heard during the designation process.

Finally, in the area of operations, we believe that once a sanctuary is designated, it is of limited value unless it is fully operational. NOAA is committed to operating its sanctuaries. I am pleased to announce that we recently hired permanent on-site sanctuary managers for Gray's Reef and the Gulf of the Farallones. A Monterey Bay manager will be in place shortly, and by the end of FY 1990 all eight designated NOAA sanctuaries will have at least one staff member on-site.

NOAA is committed to designating and managing the Nation's marine sanctuaries. We appreciate your support and interest in this vital work.

Mr. Chairman, this concludes my prepared statement. I will be glad to answer any questions.

Center for Marine Conservation

WRITTEN STATEMENT OF JACK A. SOBEL

DIRECTOR OF THE HABITAT CONSERVATION AND

MARINE PROTECTED AREAS PROGRAM OF THE

CENTER FOR MARINE CONSERVATION

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,

THE SUBCOMMITTEE ON OCEANOGRAPHY AND THE GREAT LAKES

AND THE

SUBCOMMITTEE ON FISHERIES, WILDLIFE CONSERVATION AND THE ENVIRONMENT

OF THE

HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

THE NATIONAL MARINE SANCTUARY PROGRAM

JUNE 7, 1990

1725 DeSales Street, NW Washington D.C. 20036 (202) 429-5609 Telefax (202) 872-0619

Introduction

Mr. Chairman, members of the Committee, good afternoon. My name is Jack Sobel and I am the Director of the Center for Marine Conservation's (CMC's) Habitat Conservation and Marine Protected Areas Program. CMC is a non-profit citizen's organization dedicated to the conservation of living marine resources and their habitats. We have a 10-year history of active involvement on issues concerning marine protected areas with an emphasis on the National Marine Sanctuary Program (NMSP). We would like to express our thanks for this opportunity to present our views on the current status and implementation of the NMSP.

The Center remains a strong believer and proponent of the NMSP. Despite frustration with the slow pace of site designations, continuing controversy over oil and gas prohibitions, and inadequate funding levels, we remain convinced that the sanctuary program offers a unique opportunity for providing comprehensive and coordinated management of our nation's most significant marine habitats. Through the development of strong management plans, on-site management, research and education; this program has tremendous potential for protecting these spectacular areas for the use and enjoyment of both present and future generations.

The NMSP Site Designation Process and Slow Rate of Designations

Unfortunately, the NMSP has not always lived up to its mandate, responsibility and potential for safeguarding our national marine treasures. Over the last ten years, the rate of new sanctuary designations has slowed to a snail's pace. However, we do not believe this slow designation pace is the

result of an inherently faulty site designation process. Rather, we believe the problems that have developed during the last ten years are the result of a lack of commitment on the part of the Administration to protect our marine heritage.

Given an Administration interested in protecting our nation's most spectacular marine areas, the existing designation process provides a good framework for designating sites. This framework allows the flexibility to enable individual site designations to be tailored to the needs of an individual site and also provides for substantial public involvement and input in the process. When properly executed, all interested parties including other federal agencies, Congressional members, state and local government officials, user groups, industry representatives, conservation groups and others all have an opportunity to make their views heard. NOAA is required to consider these views in developing the sanctuary and to promote compatible uses while adhering to the primary objective of resource protection. Problems with this process arise when an Administration is not committed to protecting valuable marine resources, ignores Congressional intent and directives, subverts the public process and refuses to designate sites in a timely manner or with adequate protection.

Although six sanctuaries were established during the early years of the program from 1975-1981, a rate of approximately one site per year, only a single miniscule site in far off American Samoa was designated from 1981-1988. Not only were new sanctuaries not designated during this period, but deserving

prospective sites were dropped from consideration. Strong pressure from the oil and gas industry was responsible for the stagnation that occurred with respect to site designations at that time. The abysmal record of the Reagan Administration in designating new sites during this period and not any deficiency in the designation process led us to support the changes in the 1988 Amendments which Congressionally-mandated site designations and proposals by specific deadlines.

We were optimistic that the Congressionally-mandated schedule together with a new Administration led by the self-proclaimed "Environmental President" would revive the NMSP and result in timely site designations. This optimism was short-lived. As a result of oil and gas industry pressure, the new Administration delayed the designation of Cordell Bank, the first site mandated for designation, more than six months beyond the deadline provided by Congress. When the Administration finally issued the designation for this site, it ignored extensive public input and failed to provide adequate protection for this fragile system from hydrocarbon exploration. Congressional action during review of this site designation was finally necessary to secure such protection.

Since the designation of Cordell Bank last summer, the Administration's record with respect to meeting mandated designation deadlines has gone from bad to worse. Flower Garden Banks originally proposed for designation in 1979 and mandated for designation by March 31, 1989 has not yet been designated. NOAA has not even released a Draft Environmental Impact Statement and Management Plan (DEIS/MP) for Monterey Bay originally

proposed for designation in 1977 and mandated for designation by December 31, 1989. The final site mandated for designation, the Washington Outer Coast scheduled for designation by the end of this month, is running similarly behind schedule.

The National Oceanic and Atmospheric Administration (NOAA) completed the DEIS/MP for Monterey Bay early this year. Since January, the Office of Management and Budget (OMB) has blocked the release of this document. OMB and possibly higher levels within the White House are holding the release of the DEIS/MP hostage with the intention of using it as a pawn in a chess game involving bigger decisions on oil and gas policy and the California gubernatorial race. The decision to block the release of the DEIS/MP shows a flagrant disregard by the Administration for Public Law 100-627 which mandated the site designations. There is no rational justification for linking the release of the DEIS/MP to decisions on bigger oil and gas issues in violation of the law. This linkage and consequent failure to release the document is undermining the opportunity for public participation in the designation process and subverting the National Environmental Policy Act (NEPA) provisions normally associated with the development of a sanctuary designation. Furthermore, the delay is having a ripple effect in blocking the designation process on both the Flower Garden Banks and Washington Outer Coast sites.

What can be done to force a reluctant Administration to take its responsibility under the law seriously and designate sanctuary sites in a timely manner? There does not appear to be

an easy answer to this question. One possibility which we are currently exploring, as our frustration with the delays mounts, is to file a lawsuit to force compliance with the law. Although this approach may have potential under current law and we are pursuing this possibility, such an approach would be greatly facilitated if strong citizen suit provisions were built into the sanctuary law. Incorporating such provisions into the sanctuary legislation may be the best way to ensure Administration compliance with mandated deadlines and timely sanctuary designations. If Administration compliance continues to be a recurring problem, we recommend that the Committee consider amending the sanctuary legislation to include such provisions.

A second possibility worth considering if feasible is finding a way to limit OMB's involvement in the designation process or remove it from the process completely. How this could be accomplished and whether it is a practical solution to the problem remain unanswered questions.

A final possibility would be to pursue direct Congressional designation of individual sites. We feel that this is in general a less desirable alternative since it would bypass the normal public process and result in Congress performing a function better suited to Administrative procedures. However, it may be desirable to consider this possibility as a last resort particularly in individual recalcitrant cases.

Sanctuary Size

With respect to criteria for determining the size of a sanctuary, we do not believe a single criterion is necessarily most important nor do we believe that criteria should be

considered individually. The letter of invitation I received from the Subcommittees asked whether ecosystem protection or manageability is more important in determining the size of a sanctuary. I do not think such a question can be generally answered. The relative importance of these two criteria and others as well is highly dependent on the purpose of the individual sanctuary and the nature of the resources being protected. An extreme example of this is the USS Monitor National Marine Sanctuary where the importance of ecosystem protection is obviously nil.

Both ecosystem protection and manageability are often important criteria in determining the optimum size of a particular sanctuary and should be considered together along with other criteria on a case by case basis for each proposed sanctuary. The wording of the question seemed to contain an assumption that these criteria were always opposed, i.e. ecosystem protection implies a large size and manageability a small size. I do not believe this to be true. Depending on how one defines a particular ecosystem it can be either small or large. For instance, a single patch reef one meter square is an ecosystem, but so is the entire Florida Reef Tract or the entire Atlantic Ocean. Similarly, depending on the purpose of a given sanctuary, the resources one is attempting to protect, and the threats one is trying to protect the resources from, the optimum size of a sanctuary based on manageability may be either a smaller or larger one.

The proposed Florida Keys national marine sanctuary provides a good example of a case where a larger sanctuary may actually be

easier to manage than a smaller one. If the purpose of this sanctuary is to protect the coral reef and its associated fish and invertebrate assemblages from threats such as vessel groundings, pollution, overuse and habitat destruction; a larger sanctuary including the entire reef tract as well as associated seagrass and mangrove habitats may be much more manageable than small sanctuaries such as the existing ones at Looe Key and Key Largo. A four square mile sanctuary such as Looe Key would be very difficult to manage with respect to either pollution or vessel groundings. In this case, both ecosystem protection and manageability favor a large sanctuary designation.

If defining a single criterion for sanctuary size is important, I would choose resource protection. This criterion requires that you also identify the purpose of the sanctuary, the resources to be protected and the threats they are to be protected from. The criteria currently provided in the sanctuary legislation (USCS Sec. 1433(b)(1)(F)) will result in similar optimal size designations if these same three factors are identified. I would emphasize the importance of optimum size for a sanctuary being selected on a case by case basis. As with regulations, the size of a sanctuary should be tailored to the individual site. For this reason, I don't think maximum sizes should be set for sanctuaries. I think the current criteria are sufficient for selecting sanctuary size provided they are applied on a case-by-case basis. Although they are not binding, I think the attempt to set upper size limitations on sanctuaries through report language and regulations is inappropriate. Rather,

sanctuary size should be tailored to the needs of the site.

Multiple Compatible Use Concept

The multiple compatible use concept applied to sanctuaries is highly desirable in theory. However, in practice many of the controversies over sanctuaries have been the result of disagreement over what uses should be deemed compatible. Compatible use is another term that should be defined on a case-by-case for individual sites.

Hydrocarbon Exploration and Development

In theory, I believe that decisions on whether oil and gas should be considered a compatible use should be made on a case-by-case basis just like other potential uses. I believe this even though I can not envision a sanctuary in which oil and gas activities could be considered compatible with the purposes of the sanctuary. However, the persisting problems and controversy related to the development of restrictions on oil and gas activities within sanctuaries may justify a generic ban on hydrocarbon activities within all sanctuaries provided that such a ban would not result in increased difficulty in establishing new sites.

Commercial and Recreational Fishing

Unlike hydrocarbon activities, we believe that both recreational and commercial fishing activities are generally compatible with sanctuary designations though in some cases regulating these activities may be necessary. Again, this is a decision best made on a case-by-case basis for each sanctuary as part of the designation process. The existing legislation which gives the appropriate fishery management council or state the

right to propose fisheries regulations for a proposed sanctuary but preserves the Secretary's right to supersede these proposed rules if they are not consistent with the purpose of the sanctuary provides a proper mechanism for developing effective fisheries regulations for most sanctuaries.

Adequacy of Public and Other Non-Government Input

When properly implemented, the existing sanctuary designation procedures provide extensive and sufficient opportunities for all interested parties to become involved and have input into the designation process. Although this is true in theory, there have been several instances of problems in this regard. These problems fall into a number of categories. The first category is where there is sufficient opportunity for public/private input, but the input is either ignored or preferential treatment is given to a small minority opinion or special interest group. This has frequently been the result with respect to oil and gas issues. A related category is where a special advisory/working group is set up and given special input to the process but does not fairly represent all points of view or where people feel left out. Although such groups can be useful and desirable, it is imperative that all interest groups are fairly represented. This was not the case with respect to Monterey Bay and similar complaints have been voiced with regards to Puget Sound. Another category is exemplified by the current situation with respect to Monterey Bay where extensive delays are undermining the public input process and subverting the NEPA process. Finally, despite periodic inputs during the process,

many individuals complain of a lack of opportunity to have input or receive information from the NMSP in between these opportunities. Extensive delays in the process exacerbate this problem.

Thank you.

Testimony of

Steve Chamberlain

American Petroleum Institute

Washington, D. C.

American Petroleum Institute

National Ocean Industries Association

Western States Petroleum Association

International Association of Drilling Contractors

Before The

Subcommittee On Fisheries and Wildlife Conservation

and the Environment

Subcommittee on Oversight and Investigations

Of the

House of Representatives

Washington, D.C.

June 7, 1990

Messrs. Chairmen and members of the Subcommittees, my name is Steve Chamberlain and I am Director of Exploration for the American Petroleum Institute. I am appearing today on behalf of the American Petroleum Institute (API), the National Ocean Industries Association (NOIA), the Western States Petroleum Association (WSPA) and the International Association of Drilling Contractors (IADC). API is a petroleum industry trade association that represents over 200 member companies who are engaged in all sectors of the petroleum industry, including Outer Continental Shelf oil and gas exploration and development. NOIA is an association of 325 companies engaged in every aspect of the offshore petroleum exploration industry. WSPA represents 50 companies that conduct the majority of petroleum operations in six western states. IADC represents over 1000 companies worldwide performing virtually all drilling onshore and offshore. We appreciate the opportunity to participate in this oversight hearing regarding the National Marine Sanctuaries Program.

API, NOIA, WSPA, and IADC support the concepts and objectives of the marine sanctuaries program. We agree with the findings and purposes of the Marine Sanctuaries Act, 16 U.S.C. Sec. 1431, that:

- certain areas of the marine environment possess qualities which give them special national significance;

- the sanctuary designation program can help provide comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities; and

- the sanctuary program should, to the extent compatible with primary objectives of resource protection, facilitate all public and private uses of the resources of the sanctuary areas not prohibited pursuant to other authorities.

The oil and gas industry has not objected to sanctuaries that have been designated to date. We are, however, concerned with how the sanctuary selection and designation process under the marine sanctuaries program appears to be working. We are concerned that the selection and designation process used in several sanctuary designation cases violate Congressional requirements of the Marine Sanctuaries Act and applicable National Oceanic and Atmospheric Administration (NOAA) regulations.

Industry's concerns regarding the marine sanctuary program must be considered against the background of the standards Congress established for the program. Specifically, Congress authorized the Secretary of Commerce to designate any discrete area of the marine environment as a national marine sanctuary

only if the Secretary found the following specified conditions to exist (16 U.S.C. Sec. 1433):

- the area is of special national significance due to its resource or human-use values;
- existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area;
- designation of the area as a sanctuary will facilitate such coordinated and comprehensive conservation and management of the area; and
- the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

For purposes of determining if an area of the marine environment meets the above standards, the Secretary of Commerce must consider a number of factors, including the manageability of the area, negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development, and the socioeconomic effects of sanctuary designation. 16 U.S.C. Sec. 1433(b). Congress also spelled out specific procedures for designation, including requiring an environmental impact statement on the proposed designation. 16 U.S.C. Sec. 1434.

In 1983, NOAA adopted its regulations governing the sanctuary program. 15 CFR Part 922. In those regulations are specific goals of the sanctuary program which include:

- enhancing resource protection through the implementation of a comprehensive, long-term multiple use management plan;

- providing for multiple compatible public and private use of the area;
- limiting sanctuary size to no larger than necessary for effective management.

Pursuant to its regulations, NOAA went through an extensive process, which included input from the States and public, to identify candidate sanctuary sites for its Site Evaluation List (the list from which potential marine sanctuaries are drawn). The Site Evaluation List (SEL) was completed in August 1983. NOAA regulations specify that new sites are to be added to the list if such sites are "important new discoveries or if substantial new information previously unavailable establishes the national significance of a known site." 15 C.F.R. Part 922.21(e).

In summary, Congress and NOAA have established an orderly and rational process which provides for evaluating and designating appropriate sites for marine sanctuaries. This process includes analyzing the impacts of site designation, identifying appropriate regulatory protections for sanctuary resources, and ensuring that multiple uses of sanctuary areas are compatible with protection of the resources.

Unfortunately, a review of a number of the site designations to date indicates that the required criteria and processes of the marine sanctuaries program have been disregarded. Congress has independently designated marine sanctuaries not on the SEL and

has prohibited oil and gas activities in the absence of required impact analyses. Industry is very concerned that several sites to be designated in the near future will be unnecessarily large and potentially unmanageable and will restrict important multiple uses of sanctuary resources. We are also disturbed that the sanctuary designation process appears to be used as a way to accomplish a political agenda of prohibiting oil and gas activities in offshore areas, and that other users of those areas, and their impacts on sanctuary resources, are not receiving equally stringent scrutiny.

The Cordell Banks, Monterey Bay, Northern Puget Sound and the Flower Garden Banks Marine Sanctuaries provide examples of problems the oil and gas industry sees as having developed in the marine sanctuary program.

Cordell Banks

API, NOIA, WSPA, and IADC did not formally oppose an oil and gas activity prohibition in the Cordell Banks Sanctuary. NOAA in its final rule designating the sanctuary (54 Fed. Reg. 22417, May 24, 1989), determined that the prohibition should be limited to the core area of the sanctuary -- on the Cordell Banks and within the 50 fathom isobath surrounding the Bank. NOAA correctly recognized that the necessary environmental and socioeconomic analyses of applying such a prohibition to the entire sanctuary had not been done. NOAA proposed to proceed with those

evaluations in compliance with the law and regulations before making a decision whether to extend the prohibition. Congress, however, ignored NOAA's recommendation that only a limited prohibition was necessary and passed a joint resolution endorsing the sanctuary designation, accelerating the designation schedule, and imposing a Congressionally-created prohibition on oil and gas activity over the entire sanctuary. On August 10, 1989, the President of the United States signed the House Joint Resolution (HJR 281) into law.

Monterey Bay

On December 20, 1983 (48 Fed. Reg. 56252), after completing its evaluation of Monterey Bay, NOAA removed Monterey Bay from the list of active candidates for designation as national marine sanctuaries. NOAA concluded that Monterey Bay did not meet the statutory and regulatory criteria for designation because:

- two other national marine sanctuaries in California (Channel Islands and Point Reyes-Farallon Islands) had already been designated and assured protection of marine resources similar to those that would be protected by a Monterey Bay Sanctuary.
- the huge size of the contemplated Monterey Bay Sanctuary would impose impossible surveillance and enforcement burdens on NOAA. The Monterey Bay Sanctuary would be the largest sanctuary, 2532 square miles, almost twice as large as the next biggest sanctuary, the Channel Islands, which is approximately 1440 square miles; and
- there was already a wealth of existing marine conservation programs in place in the proposed sanctuary area.

Notwithstanding NOAA's decision, Congress again overrode the statutory and administrative processes and directed NOAA in 1988 to designate a portion of the Monterey Bay as a national marine sanctuary.

Since the proposed designation of Monterey Bay as a sanctuary is not yet official, we will, at this time, refrain from commenting upon either the designation or on any proposed prohibition on oil and gas activity in the sanctuary which may be included in the designation. We do wish to state, however, that while we recognize the concern for the possible effects of oil and gas drilling activities on sanctuary resources, we are equally concerned that prospective oil and gas areas in or near Monterey Bay not be arbitrarily closed off by an unnecessarily large area for the proposed sanctuary. We hope that NOAA will pursue, and that Congress will let NOAA perform, the required analyses and evaluations that are necessary preconditions to determining the appropriate size of the sanctuary and any specific protective management regulations for it that may be necessary.

We wish to point out that the resources of the proposed Monterey Bay sanctuary are presently under siege from a variety of uses which are adversely affecting the quality of those resources. A focus on the potential risks of oil and gas activities which have not and may never occur in the area should not deflect public and regulatory attention from the real and

ongoing impacts that sewage discharges, urban runoff, commercial and recreational fishing, and a host of other activities are having on the Bay right now. We urge that any decisions to regulate or prohibit activities deemed incompatible with the goal of protecting sanctuary resources be made objectively, on sound technical and economic information, and not be used as a means to discriminate against one particular category of activity for potentially political purposes.

Northern Puget Sound

API, NOIA, WSPA and IADC support the intent and goals of the sanctuary designation program and do not oppose, in concept, the Northern Puget Sound Sanctuary. We are concerned, however, that the proposed designation is not consistent with the marine sanctuary program's goal of supporting compatible, multiple uses within the sanctuary area. This is the first sanctuary that we are aware of that does not provide for alternate routes for tankers and other shipping. It is vital that adequate shipping lanes serving the existing industries, ports, oil and gas facilities and the local populace in and around the Puget Sound area be designated in the proposal.

Flower Garden Banks

We do not believe the regulations proposed by NOAA (54 Fed. Reg. 7953, February 24, 1989) for the implementation of the

Flower Garden Banks Sanctuary are sufficiently precise so as to ensure that oil and gas operations near the proposed sanctuary in the Gulf of Mexico are not unduly restricted. We also believe that the lease stipulations of nearby oil and gas leases are sufficient to protect the sanctuary from any potential damage from deposits or discharges of materials and substances beyond the boundaries of the proposed sanctuary, thereby rendering unnecessary the proposed no discharge prohibition.

Our experience with the Marine Sanctuary Program suggests that aspects of the implementation of the marine sanctuary program, including specific site designation decisions, may be going astray. API, NOIA, WSPA, and IADC believe the program should be guided by the following principles:

(1) As part of the process of designating each individual sanctuary, ensure that the impacts of all existing and potential future activities that pose a demonstrated risk to sanctuary resources are objectively evaluated. The impacts of decisions to restrict or prohibit those activities must be fairly analyzed before any such decisions are made part of the final sanctuary management program.

In this regard, we recognize that, in some cases, it may be reasonably determined that oil and gas activities, as well as many other activities, should be restricted or prohibited within a sanctuary as incompatible with protection of sanctuary

resources. Nonetheless, we strongly believe that the environmental record of offshore oil and gas drilling demonstrates that such activity does not necessarily pose an unacceptable risk. Any decision to prohibit such activities must be made only after a full analysis of the risks, potential mitigation, and the socioeconomic impacts of a prohibition. Multiple use is a stated purpose and goal of the marine sanctuaries program and should be furthered whenever possible.

(2) An effort must be made to distinquish between alleged threats to the specific marine resources under consideration for protection which are a mere possibility and those threats for which there is a reasonable expectation of occurrence. Sanctuary status should be reserved for those unique circumstances where other resource protection authorities have been demonstrated as inadequate.

(3) A high degree of management and protection to specific resources within reasonably limited geographic areas should be encouraged. The boundary of a sanctuary should be no larger than proven necessary for the protection of the resources for which the sanctuary is proposed. Consistent with this objective, the size of the sanctuary should not include additional buffer zones.

We hope that Congress will recognize the value of the sanctuary site selection and designation process that it created under the Marine Sanctuaries Act. That is the process NOAA now

uses. In recent years, however, Congress has evidenced a willingness to ignore the provisions of the Act and run roughshod over the selection and designation process.

Congressional delegation of sites through legislation makes a mockery of the statutory procedures and the National Environmental Policy Act. It renders meaningless the public input processes and environmental impact statements NEPA requires. It forecloses opportunities provided by the existing process to weigh the trade-offs involved in sanctuary designation, including the identification of appropriate sanctuary boundaries and protective conditions governing operation and uses of the sanctuary.

For sites not presently on NOAA's Site Evaluation List, the appropriate procedure to be followed is for NOAA to reopen the SEL for its five-year review. That public comment process is the appropriate means by which NOAA will be able to review the resources of the sites and scientifically determine whether they should be on the SEL and potentially be designated as a marine sanctuary. Congressional reordering of NOAA's processes and schedules on a site-specific basis can result in the Agency having to spend large amounts of scarce resources on evaluating sites that have little or no likelihood of meeting the designation criteria of the Act. At the same time, it detracts from the Agency's ability to make progress with evaluations and designations of more qualified candidate sites.

The oil and gas industry strongly supports the marine sanctuaries program and desires to see it implemented in a way that is true to the program's stated purposes and goals. If changes need to be made to the program, they should be made to the general framework of the law's criteria, standards and procedures, and not through special purpose legislation directed to individual sanctuaries.

We are eager to work with Congress and the Administration on improving the designation and management of marine sanctuaries. We appreciate this opportunity to present our views.

American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 20005
202-682-8170

S. P. Chamberlain
Director, Exploration

June 29, 1990

The Honorable
Thomas M. Foglietta
Chairman
Subcommittee on Oversight
and Investigations
Committee on Merchant Marine
and Fisheries
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Foglietta:

I am hereby returning the corrected copy of the transcript of my remarks before the Subcommittee on Oversight and Investigations on June 7, 1990 concerning the Marine Sanctuary Program. There are minor grammatical corrections and editing clarifications (e.g. "lease sale" instead of "resale") noted.

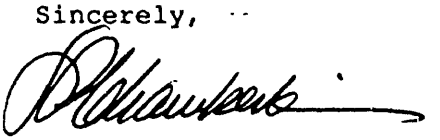
In addition, I would like to clarify a point that was questioned by your Staff Director, Phillip Rotondi, immediately following the hearing. The point in question appears in my written statement submitted for the record at page 2, first full paragraph, first sentence, wherein I stated that: "The oil and gas industry has not objected to sanctuaries that have been designated to date."

Several years ago, the Western States Petroleum Association (formerly Western Oil and Gas Association) did indeed challenge the designation of the Channel Islands National Marine Sanctuary in federal court. The objection was not to the creation of the sanctuary itself. Rather, we objected to the inclusion of a prohibition against oil and gas leasing, exploration and development in the designation document creating the sanctuary. We felt then, as we do now, that there was inadequate scientific justification for such a prohibition, especially given the long history of safe operations in the Santa Barbara Channel and the negligible effects on the marine resources in the region.

I trust this clarification is satisfactory. One final note, the written statement for the record submitted two days before the hearing was in the name of James Martin, Mobil Oil Exploration

and Producing, Inc., on behalf of the American Petroleum Institute, et al. We have substituted my name for Mr. Martin's on the cover sheet and first page in the written statement attached to reflect that I was the API witness appearing on June 7th.

Sincerely,



Attachments (2)
cc: P. Rotondi

TESTIMONY OF SUPERVISOR MARC DEL PIERO, MONTEREY COUNTY, CALIFORNIA, BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON MERCHANT MARINE AND FISHERIES SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS AND FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT CONCERNING THE NATIONAL MARINE SANCTUARIES PROGRAM, JUNE 7, 1990.

I WOULD FIRST LIKE TO EXTEND MY APPRECIATION TO BOTH SUBCOMMITTEES FOR INVITING ME TO TESTIFY ON AN ISSUE OF SPECIAL IMPORTANCE TO MYSELF, MY CONSTITUENTS, AND IN A BROADER PERSPECTIVE, THE PEOPLE OF THE STATE OF CALIFORNIA, AND IN FACT THE PEOPLE OF THIS NATION AND THAT INTERNATIONAL SCIENTIFIC COMMUNITY WHICH HAVE A UNIQUE INTEREST IN THE MARINE ENVIRONMENT AND THE VAST, NATURAL RESOURCES CONTAINED WITH IT.

I HAPPEN TO BE A VERY FORTUNATE ELECTED PUBLIC OFFICIAL WITH RESPECT TO MARINE RESOURCES. IN MY FIRST SUPERVISORIAL DISTRICT IN MONTEREY COUNTY, WHICH EXTENDS BETWEEN THE WATERSHEDS AND COASTAL DRAINAGE SYSTEMS OF THE PAJARO AND SALINAS RIVERS--SOME FIFTEEN MILES--CONTAINS A CONCENTRATION OF A MYRIAD OF COASTAL AND MARINE RESOURCES.

THE COASTAL STRAND WHICH EXTENDS VIRTUALLY UNINTERRUPTED WITHOUT ANY FORM OF WHAT WE WOULD DESCRIBE AS DEVELOPMENT, WITH THE EXCEPTION OF THE SIGNIFICANTLY IMPORTANT COMMERCIAL AND COASTALLY DEPENDENT INDUSTRIAL COMMUNITY OF MOSS LANDING, LIES A SYSTEM OF WEST COAST FLANDARIAN SAND DUNES BACKED BY A SYSTEM OF BRACKISH WETLANDS AND COASTAL DEPENDENT AGRICULTURAL USES--SPE-

CIFICALLY ARTICHOKES AND BRUSSEL SPROUTS. THIS VAST STRETCH OF UNINTERRUPTED BEACH AND DUNES OFFERS THE PUBLIC NEAR CONTINUAL ACCESS TO THREE STATE OWNED BEACHES AND FORMS THE FOCUS OF AN ADDITIONAL THIRTEEN NEAR CONTIGUOUSLY STATE-OWNED BEACHES STRETCHING FROM PESCADERO TO THE NORTH AND JULIA PFEIFFER BURNS TO THE SOUTH. THE HEART OF THIS INCREDIBLY RICH MARINE RESOURCE AREA IS THE FEDERALLY DESIGNATED ELKHORN SLOUGH NATIONAL ESTUARINE RESEARCH RESERVE--AT THE HEAD OF THE MONTEREY SUBMARINE CANYON--AND THE PROPOSED MONTEREY BAY NATIONAL MARINE SANCTUARY.

FOR THE LAST EIGHTEEN MONTHS I HAVE BEEN INVOLVED, AT THE REQUEST OF CONGRESSMAN PANETTA, IN THE DEVELOPMENT OF THE DRAFT TECHNICAL WORKING DOCUMENT AND THE ENVIRONMENTAL IMPACT STATEMENT FOR THE DESIGNATION OF THE MONTEREY BAY NATIONAL MARINE SANCTUARY. I WOULD NOTE THAT MONTEREY BAY MEETS ALL OF THE CRITERIA FOR SITE IDENTIFICATION PROPOSED BY NOAA'S MARINE AND ESTUARINE MANAGEMENT DIVISION. I BELIEVE A REMINDER OF THOSE CRITERIA IS APPROPRIATE:

NATIONAL RESOURCE VALUES

- UNIQUE SUBMARINE CANYON COMMUNITY: HIGH
- EXTREMELY DIVERSE ROCKY INTERTIDAL COMMUNITY: HIGH
- EXTENSION KELP BED COMMUNITY: HIGH
- KELP BED PRODUCTIVITY: EXTREMELY HIGH
- ROCKY INTERTIDAL PRODUCTIVITY: HIGH

- o CANYON CREATES IMPORTANT NEARSHORE UPWELLING SUPPORTING THE FOOD CHAIN
- o CANYON-FEEDING BIRDS AND MAMMALS INDICATE PRODUCTIVITY
- o ELEVEN ENDANGERED OR THREATENED SPECIES
- o UNIQUE SPECIES ASSOCIATIONS AND BIOLOGIC ASSEMBLAGES OF KELP, SEA URCHIN, ABALONE, AND SEA OTTERS

  CANYONS: UNIQUE ARRAY OF MESO AND BATHYPELAGIC FISH
- o MAJORITY OF SEA OTTER RANGE
- o FEEDING AREA OF BLUE WHALES
- o BREEDING HABITAT OF NORTHERN ELEPHANT SEALS AT ANO NUEVO
- o SEABIRD BREEDING COLONIES
- o BROWN PELICAN SUMMERING AREA
- o FEEDING AREA FOR ENTIRE ASHY STORMPETRAL POPULATION
- o NESTING AND HABITAT FOR THE RARE, ENDEMIC CALIFORNIA LEASY TERN
- o ONE OF FEW MAJOR BAYS AND SUBMARINE CANYONS

HUMAN USE VALUES

- o RECREATIONAL FISHERY

  ROCKFISH, SALMON, HALIBUT AND SHARK

- o COMMERCIAL FISHERY

  SALMON, SQUID (CALAMARI), ROCKFISH, HALIBUT, WHICH CROAKER

- SIGNIFICANT COMMERCIAL FISHING HARBORS
  - MORRO BAY, MONTEREY, MOSS LANDING, SANTA CRUZ, PILLAR POINT, SAN FRANCISCO AND BODEGA
- ECOLOGICAL/ESTHETICS
  - MONTEREY PENINSULA, BIG SUR
    - NATURE OBSERVATION
    - SCUBA DIVING
- SIX WORLD RENOWN RESEARCH FACILITIES
  - UNIVERSITY OF CALIFORNIA--SANTA CRUZ
  - STANFORD UNIVERSITY -- HOPKINS MARINE STATION -- MONTEREY
  - CALIFORNIA STATE UNIVERSITY--MOSS LANDING
  - U.S. NAVAL POST GRADUATE SCHOOL--MONTEREY
  - MONTEREY BAY AQUARIUM--MONTEREY
  - MONTEREY BAY AQUARIUM RESEARCH INSTITUTE -- MOSS LANDING
- RELATIONSHIP TO EXISTING RESOURCE PROGRAMS
  - ANO NUEVO STATE RESERVE
  - ELKHORN SLOUGH NATIONAL ESTUARINE RESEARCH RESERVE
  - PACIFIC GROVE MARINE GARDENS FISH REFUGE
  - HOPKINS MARINE LIFE REFUGE
  - POINT LOBOS ECOLOGICAL RESERVE
  - CALIFORNIA SEA OTTER GAME REFUGE
  - 16 CALIF. DEPT. OF PARKS STATE BEACHES
  - ADEQUATE SIZE FOR MANAGEMENT, SURVEILLANCE, AND ENFORCEMENT

NOW, ONE OF THE MOST CRITICAL OF THE CRITERIA IS COST. THIS FACTOR WHEN COMPARED TO THE JUST RECITED NATURAL RESOURCE AND HUMAN USE VALUES IS ONE OF THE MOST SIGNIFICANT ASPECT OF THE NOMINATION PROCESS. NOAA ESTIMATED MANAGEMENT COSTS FOR FISCAL YEAR 1990 IS $504,000.00. THIS I PROPOSE IS A SIGNIFICANT INVESTMENT IN TERMS OF ANY ANALYSIS OF COST/BENEFIT RATIO. THE BENEFIT TO THE NATION FAR OUT WEIGH THE COST OF A HALF MILLION DOLLARS PER YEAR TO MANAGE THIS UNIQUE AND SPECIAL RESOURCE. THE RESOURCES CONTAINED WITHIN THE PREFERRED ALTERNATIVE, FROM THE WATERSHED OF PESCADERO MARSH TO JULIA PFEIFFER BURNS STATE PARK CLEARLY DEMAND THE PROTECTION OFFERED BY MARINE SANCTUARY STATUS WHEN EXPRESSED WITHIN ECONOMIC TERMS OF A HALF MILLION DOLLARS PER YEAR. I WOULD STRONGLY URGE FULL FUNDING OF THE ENTIRE NATIONAL MARIE SANCTUARY PROGRAM BUDGET.

NOW, I WOULD LIKE TO TURN TO SOME OF THE SPECIFIC INQUIRIES CONTAINED IN YOUR INVITATION EXTENDED TO ME. I RECOGNIZE THE SPECIFIC PURPOSE OF YOUR INVITATION IS TO SEEK ANSWERS TO THE QUESTION OF TIMELINESS OF THE DESIGNATION PROCESS. SPECIFICALLY WITH REGARD TO THE 1977 INITIAL SELECTION PROCESS OF MONTEREY BAY AND THE FACT THAT EVEN WITH A STATUTORILY STIPULATED DESIGNATION OF DECEMBER 31, 1989; NO DESIGNATION HAS BEEN MADE.

WELL, WHILE I'M NOT FAMILIAR WITH ALL OF THE DETAILS INVOLVED IN THE FEDERAL SANCTUARY SELECTION PROCESS PER SE, I AM QUITE FAMILIAR WITH THE PLANNING PROCESS WITHIN LOCAL AND STATE POLITICAL ENVIRONMENTS IN CALIFORNIA. IN 1977, AS A PLANNING

COMMISSIONER, I BEGAN THE PROCESS OF DEVELOPING A LOCAL COASTAL PROGRAM FOR MONTEREY COUNTY. THAT COASTAL PLANNING PROCESS HAD A STATUTORILY STIPULATED DESIGNATION FOR COMPLETION OF JANUARY 1, 1979. HOWEVER, I AM HERE TODAY TO TELL YOU THAT THE COASTAL PLANNING PROCESS CAME TO FRUITION IN MONTEREY COUNTY IN FEBRUARY, 1988. NOW, I'M NOT EXACTLY SURE HOW MANY PLANNING COMMISSIONERS OR BOARD OF SUPERVISORS HAD A HAND IN CRAFTING THAT PARTICULAR PLANNING DOCUMENT, BUT I CAN ASSURE YOU THAT THE NUMBER IS FAR LESS THAN THE NUMBER OF CONGRESSMEN AND WOMEN WHO HAVE PARTICIPATED IN THE SELECTION OF MONTEREY BAY AS A NATIONAL MARINE SANCTUARY!

PLANNING AND THE POLITICAL PROCESS ARE NOT NECESSARILY COMPATIBLE WITH ACHIEVING TIMELY RESULTS. I AM HERE BEFORE YOU TODAY AT WHAT I BELIEVE IS THE POLITICAL BRINK OF HAVING MONTEREY BAY DESIGNATED AS A NATIONAL MARINE SANCTUARY. WE ARE TO THE POINT OF ACHIEVING THE RESULTS THROUGH THAT PLANNING AND POLITICAL PROCESS. I BELIEVE THE DESIGNATION OF MONTEREY BAY AS A NATIONAL MARINE SANCTUARY IS EMINENT AND I AM EXTREMELY PLEASED TO HAVE BEEN PART OF THE PROCESS TO PROTECT THIS SIGNIFICANT NATIONAL TREASURE.

WITH REGARD TO THE SUBCOMMITTEES INTERESTS THAT ARE RELATED TO THE PROCESS AND ONES THAT ARE SIGNIFICANTLY IMPORTANT IN THE SELECTION PROCESS. THOSE INTEREST INCLUDE THE QUESTIONS OF:

- SANCTUARY SIZE

- WHAT CRITERIA DETERMINES SIZE - ECOSYSTEM PROTECTION, OR MANAGEABILITY
- PERMITTED ACTIVITIES COMPATIBLE WITH RESOURCE PROTECTION
- COMPATIBLE ACTIVITIES - HYDROCARBON EXPLORATION AND DEVELOPMENT; COMMERCIAL AND RECREATIONAL FISHING

THE SIZE OF SANCTUARIES SHOULD NOT BE LIMITED BY SOME STANDARD OR STATISTICAL MEASUREMENT. SANCTUARY SIZE SHOULD BE BASED ON ECOSYSTEM PROTECTION AND MANAGEABILITY - YOU CANNOT SEPARATE THE PROTECTION AND MANAGEMENT. OBVIOUSLY THERE ARE GEOGRAPHIC AND BIOLOGICAL LIMITATIONS TO PARTICULAR ECOSYSTEMS. AS AN EXAMPLE, THE PREFERRED ALTERNATIVE BOUNDARY FOR THE MONTEREY BAY SANCTUARY UTILIZES THE WATERSHED OF PESCADERO CREEK IN SAN MATEO COUNTY TO THE NORTH. THIS BOUNDARY RECOGNIZES THE SIGNIFICANCE OF PESCADERO MARSH AND OFFERS PROTECTION TO ANO NUEVO AND THE NUMEROUS STATE BEACHES ALONG THE SANTA CRUZ AND SAN MATEO COUNTY COASTS. THE SOUTHERN BOUNDARY UTILIZES JULIA PFIEFFER BURNS STATE BEACH IN BIG SUR, THE SOUTHERN MOST STATE BEACH IN MONTEREY COUNTY TO PROTECT THE SEA OTTER POPULATION. WITHIN THESE BOUNDARIES LIES THE ECOSYSTEM OF MONTEREY BAY AND ITS CENTERPIECE - THE SUBMARINE CANYON.

ONE LAST ISSUE ON MANAGEABILITY, SMALLER DOES NOT MAKE FOR EASIER MANAGEMENT. I BELIEVE COORDINATION WITH THE COAST GUARD AND WITH CALIFORNIA'S FISH AND GAME AND PARKS AND RECREATION DEPARTMENTS AS WELL AS THE RESEARCH AND EDUCATIONAL COMMUNITY CAN ASSIST NOAA IN ITS MANAGEMENT EFFORTS.

NOW, WHAT TYPES OF USES ARE APPROPRIATE WITHIN SANCTUARIES. OBVIOUSLY THOSE WHICH SUSTAIN AND NURTURE THE ECOSYSTEM OF THE SANCTUARY. MARINE SANCTUARIES ARE DESIGNATED FOR THEIR CONSERVATION, RECREATIONAL, ECOLOGICAL, HISTORICAL, RESEARCH, EDUCATIONAL, AND/OR ESTHETIC VALUES WHICH REQUIRE PROTECTION.

I BELIEVE RECREATIONAL AND MANAGED COMMERCIAL FISHERIES ARE CLEARLY COMPATIBLE USES WITH THE RESOURCE PROTECTION AFFORDED BY SANCTUARY STATUS. COMMERCIAL FISHERMEN SHOULD BE INVOLVED IN DEVELOPING REGULATIONS THROUGH THEIR RESPECTIVE FISHERIES MANAGEMENT COUNCILS, SUCH AS THE PACIFIC FISHERIES MANAGEMENT COUNCIL. COMMERCIAL FISHING MAY BE VIEWED AND MUST BE MANAGED AS A RENEWABLE LONG-TERM RESOURCE TO ASSURE SUSTAINED YIELDS.

NOW WITH REGARD TO HYDROCARBON EXPLORATION AND DEVELOPMENT. THERE IS ABSOLUTELY NO QUESTION IN MY MIND THAT, WITH RESPECT TO THE MONTEREY BAY AREA AND CENTRAL CALIFORNIA, THAT OFFSHORE OIL AND GAS EXPLORATION AND/OR DEVELOPMENT <u>CANNOT</u> BE COMPATIBLE WITH THE GOALS OF THE NATIONAL MARINE SANCTUARY PROGRAM. THOSE GOALS REQUIRE REPEATING:

1. ENHANCE RESOURCE PROTECTION, THROUGH COMPREHENSIVE AND COORDINATED CONSERVATION AND MANAGEMENT TAILORED TO THE SPECIFIC RESOURCES, THAT COMPLEMENTS EXISTING REGULATORY AUTHORITIES;
2. SUPPORT, PROMOTE AND COORDINATE SCIENTIFIC RESEARCH ON, AND MONITORING OF, THE SITE-SPECIFIC MARINE RESOURCES TO IMPROVE MANAGEMENT DECISION-MAKING IN NATIONAL

MARINE SANCTUARIES;

3. ENHANCE PUBLIC AWARENESS, UNDERSTANDING, AND WISE USE OF THE MARINE ENVIRONMENT THROUGH PUBLIC INTERPRETIVE AND RECREATIONAL PROGRAMS; AND
4. FACILITATE, TO THE EXTENT COMPATIBLE WITH THE PRIMARY GOAL OF RESOURCE PROTECTION, MULTIPLE USE OF THESE MARINE AREAS.

I FIRMLY BELIEVE, GIVEN THE RESOURCES OF THE MONTEREY BAY AND ECOLOGIC ENVIRONS AS PROPOSED IN THE PREFERRED ALTERNATIVE #1, AND BASED UPON A CLEAR UNDERSTANDING OF THE PREVIOUSLY CITED SANCTUARY PROGRAM GOALS, THAT OIL AND GAS EXPLORATION AND/OR DEVELOPMENT CAN BE CONSIDERED AN INCOMPATIBLE USE.

RESOURCE PROTECTION IS THE PRIMARY GOAL. OIL AND GAS DEVELOPMENT WITHIN MONTEREY BAY AND ENVIRONS SHOULD BE PROHIBITED.

STATE OF CALIFORNIA—THE RESOURCES AGENCY GEORGE DEUKMEJIAN, Governor

CALIFORNIA COASTAL COMMISSION
631 HOWARD STREET, 4TH FLOOR
SAN FRANCISCO, CA 94105
(415) 543-8555

June 1, 1990

Honorable Thomas M. Foglietta
Chairman, Subcommittee on
Oversight and Investigations
U.S. House of Representatives
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

Dear Congressman Foglietta:

Thank you for your letter of May 16, 1990 addressed to Mr. Les Strnad of our agency, inviting testimony on the subject of the National Marine Sanctuaries Program.

The California Coastal Commission firmly believes the National Marine Sanctuary Program is a critical and vital component of Coastal Zone Management. Sanctuary designations provide a means by which unique and sensitive coastal resources of state and national significance can be managed and protected in a comprehensive and effective fashion.

While other mandated responsibilities and a shortage of staff resources prevent us from providing you and the subcommittee with the indepth response that this important subject deserves, we do have several general observations related to the points raised in your letter.

With respect to existing Marine Sanctuaries along the California coast, we have enjoyed excellent working relations with the management of these sanctuaries and with NOAA's Marine and Estuarine Management Division in general. Speaking to the Monterey Bay designation process it is our impression that from the outset NOAA staff has worked with diligence to meet the stipulated designation time frame. In addition, Congressman Leon Panetta convened a task force comprised of federal, state, and local government officials, together with representatives from other interest groups, for the purpose of assisting in the coordinated collection of data and responses essential to timely completion of the draft management plan. We believe this process was successful in maximizing public participation within the proposed sanctuary sphere of interest and was also helpful in assisting NOAA's staff in identifying sensitive marine resource issues and developing proposed management strategies. Candidly speaking, it is our impression that two factors have been significant in slowing down the designation process. First, we believe that NOAA's staff is spread too thin. The number of competing demands for their time virtually assures slippage in the established work program timetable. We also believe that potentially competing objectives between federal departments, such as Commerce and Interior, and the political

sensitivity of sanctuary designation vis-a-vis the OCS issue have contributed to further delaying the process.

With respect to the related issues of interest noted in your letter, we believe that the protection of coastal ecosystems is central to the whole notion of sanctuary designation. Once the resources are identified and their sensitivity, extent and inter-relationship established, a management plan should follow to provide the most effective stewardship and protection of these coastal resources. The proposed Monterey Bay Marine Sanctuary is especially unique in this regard in that it will integrate in an ecological unit the proposed sanctuary with the already existing Elkhorn Slough Estuarine Reserve. Given the underlying purpose to establishing marine sanctuaries, we believe that hydro-carbon exploration and development are activities incompatible with the fundamental concepts of a sanctuary designation. Commercial and recreational fishing, on the other hand, can certainly be compatible activities. We expect this to be the case in the proposed Monterey Bay Marine Sanctuary.

As noted earlier with respect to inter-governmental coordination and public participation, we believe that the task force created by Congressman Leon Panetta and the outreach work done be NOAA's staff provide an exemplary model for maximizing involvement in the process. These two levels of coordination provided the basis for a communication network that we believe has led to a thorough presentation and explanation of the program and an opportunity for a two way dialogue. We anticipate the benefits and effectiveness of these efforts will become manifest when the draft documents are ultimately released.

In closing, we appreciate your interest and contact on this subject of state and national interest. The California Coastal Commission fully supports the Marine Sanctuary Program and the designation process. We also agree that all possible steps should be taken to ensure a timely and successful designation of these sensitive and irreplaceable marine resource areas.

Sincerely,

Peter M Douglas
Executive Director

cc: Congressman Leon Panetta
Franklin D. Christhilf, NOAA Pacific Regional Manager
Commissioners

1302E

MONTEREY COUNTY

THE BOARD OF SUPERVISORS

MONTEREY COURTHOUSE - 1200 AGUAJITO ROAD, SUITE 006, MONTEREY, CALIFORNIA 93940

KARIN STRASSER KAUFFMAN
SUPERVISOR - DISTRICT 5

SANDRA M. SMITH
AIDE TO THE SUPERVISOR

TELEPHONES: (408) 647-7755
(408) 755-5055 from Salinas
(408) 667-2770 from Big Sur

June 5, 1990

Gerry E. Studds
Chairman, Subcommittee on
Fisheries and Wildlife
Conservation and the Environment

Thomas M. Foglietta
Chairman, Subcommittee on
Oversight and Investigations

Dear Congressmen Studds and Foglietta:

I am pleased to respond to the Subcommittees on Oversight and Fisheries and Wildlife Conservation and the Environment and to provide the following written testimony to your June 7, 1990 hearing. My supervisorial district includes the major portion of the Monterey Peninsula and the entire majestic coastline of Big Sur, plus Carmel and Del Monte Forest, and encompasses a substantial portion of the proposed Monterey Bay National Marine Sanctuary.

I have followed the sanctuary designation process for Monterey Bay since its selection in 1977. This is an effort of utmost urgency to my constituents and the millions of annual visitors to our renowned coast. We share your concerns about the untimely delay in bringing forward the Management Plan, and we decry the current lack of protection, with still no actual

sanctuary in place at this time.

I urge the subcommittees look to the National Oceanic and Atmospheric Administration for the purposes of site selection and designation. The chief consideration should be one of ecologic merits and not merely location. California, with its 840 miles of coastline, contains several areas sustaining unique marine and environmental resources imminently worthy of sanctuary designation. However, to date political considerations have limited sanctuary designation to only the Cordell Bank.

With regard to sanctuary size, ecosystem protection and manageability, there should be no standard or statistical measurement arbitrarily limiting the boundaries. Size is dependent upon ecosystem protection, and one cannot separate ecosystem protection from manageability of those resources. All three factors must be utilized to meet the goals of resource protection contained in the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972. Smaller sized sanctuaries do not make for easier management when ecosystem protection is the goal of the Act.

With regard to compatible activities within sanctuaries, recreational and managed commercial fisheries should be viewed as compatible resource dependent uses. Commercial fishermen should be involved in developing regulations through their respective management councils, such as the Pacific Fisheries Management Council.

Most significant, offshore oil and gas exploration and development are not compatible with the goals of the MPRSA. Specifically such activities are most certainly not compatible with the

Monterey Bay area. I refrain from describing the litany of resource-related factors which resulted in Monterey Bay's original selection for sanctuary status. But clearly there is no more incompatible use with a marine sanctuary designation than offshore oil and gas exploration and development.

I do appreciate the opportunity to assist in your evaluation of the National Marine Sanctuaries Program. I trust my recommendations can aid you in the process to designate Monterey Bay as California's next National Marine Sanctuary in the very near future.

Very truly yours,

Karin Strasser Kauffman

Karin Strasser Kauffman
Supervisor, District #5

TESTIMONY

The National Marine Sanctuaries Program - Site Designation

Subcommittee on Oversight and Investigations and Fisheries and Wildlife Conservation and the Environment

U.S. House of Representatives
Washington, D.C.

Michael Martin, Ph.D.
Marine Pollution Studies Laboratory
California Department of Fish and Game
2201 Garden Road
Monterey, CA 93940

June 7, 1990

Thank you very much for your invitation to submit testimony regarding your Subcommittee's evaluation of the National Marine Sanctuaries Program. The issues upon which you have requested comments include: 1) the designation process and suggestions for expediting the process, 2) criteria for deciding the optimal size of a sanctuary, 3) compatibility of petroleum hydrocarbon development, as well as commercial and recreational fisheries, in a sanctuary, and 4) adequacy of intergovernmental coordination.

These topics are important issues regarding the National Marine Sanctuaries Program. As custodians of California's fish and wildlife resources within designated or future marine sanctuaries, our department has responsibilities, regulations, and opinions on these issues as they are related to protection and enhancement of living marine and coastal resources. I share the Subcommittee's concerns regarding the pace at which the process of designating sanctuary sites has progressed, especially in regard to Monterey Bay's designation. Although I am not entirely familiar with the legal requirements and time schedules for the designation process, there are long delays between the time of nomination and the formal designation. The formation of a local *ad hoc* committee by Congressman Leon Panetta of Monterey resulted in improved communication among local and state agencies and interested groups in the designation of Monterey Bay as a sanctuary. Congressman Panetta and state/local elected officials provide inputs and review of the designation

plan, which result in more directed and rapid responses to the NOAA Sanctuary Designation team. The sanctuary designation process should formalize the constitution and establishment of advisory groups to the NOAA Designation team. State fisheries and environmental agencies should be members of the advisory group. Another area that requires attention is to the commitment of more fiscal resources and staffing to the Sanctuary Designation team.

One major effort in the designation process is the collection, interpretation, and assembly of environmental data and information for a nominated site. The current system of the Sanctuary Designation team's request for information on a voluntary basis from government and academic institutions results in uneven or inadequate responses. Adequate funding to local/regional/state agencies or institutions to develop, analyze, and prepare environmental information regarding a candidate sanctuary should be provided by NOAA.

The issue of the size of a proposed sanctuary is somewhat troublesome; sites should be evaluated on a case-by-case basis. Both resource protection and management of natural resources are essential to sanctuary integrity and maintenance. Emphasis should be placed upon designating sanctuary boundaries with the prime goal of natural resources protection. Management of natural resources in the coastal zone is complex; I subscribe to the view that man's wise use and conservation of those natural resources can best be accomplished through

responsible management by our fish and wildlife agency. Commercial and recreational fisheries are compatible, consistent, and characteristic activities that should be encouraged and continued in all designated sanctuaries. I recommend the continued sanctuary policies and regulations of have State and Federal fisheries/wildlife agencies fully responsible for the regulation of fisheries/wildlife resources within marine sanctuary boundaries, as prescribed by current federal law.

In regard to incompatible activities within marine sanctuaries, a significant environmental concern is the impact of petroleum hydrocarbon development/transportation and other coastal mineral mining operations. The accidental discharges of petroleum hydrocarbons can cause catastrophic impacts on fisheries and wildlife. In Monterey Bay, there are significant populations of marine birds and mammals, including the southern sea otter, a currently Threatened marine mammal. As has recently been observed in Alaska, these animals are particularly vulnerable to oil spills. Other activities which may threaten the full protection of coastal resources are marine waste disposal from municipal waste discharges, industrial discharges, and harbor dredge spoil discharges. In general these latter discharges have historically been more reliably treated or evaluate and have been released in a manner which can protect living marine resources. There are, nonetheless, major areas of southern California and San Francisco Bay which have been adversely affected and damaged by past discharge practices. We will continue to strive for correction of, and compensation for, these past

damages to fish and wildlife resources. In the case of accidental releases of petroleum hydrocarbons, there can be no guarantee for protection to marine life; therefore, for the full protection of the Sanctuary's living resources, there should be a prohibition of petroleum hydrocarbon development, and special precautions/safety requirements for oil transportation, especially in the case of Monterey Bay. This prohibition will not only protect the sanctuary directly, but also will protect such fully Protected species of wildlife, such as the southern sea otter. An additional benefit of this action will be the protection of a major concentration of marine laboratories of the Pacific Rim states/nations: the California Department of Fish and Game's Granite Canyon Laboratory in Big Sur; Stanford University's Hopkins Marine Station; the State University's Moss Landing Marine Laboratory; and University of California's Long Marine Laboratory, as well as a number of public aquaria, private mariculture, and environmental consulting laboratories. As Laboratory Director for the Department's operations at 3 of these facilities, an oil spill in this section of California's coast would be devastating to my research group's studies and would seriously compromise our investigations of contamination/pollution in California's nearshore marine life. These laboratories are entirely dependent upon the presence of uncontaminated seawater for their operations. All have experiments and studies that have continued for long periods of time and would be irreparably damaged by petroleum hydrocarbons or other toxic chemical insults, both on a short-term or long-term basis.

In regard to the issue of the adequacy of intergovernmental coordination, NOAA Sanctuary Designation Staff for Monterey Bay should be commended for their energetic and enthusiastic work in the preparation of the Monterey Bay Sanctuary designation document. Any delays in the designation process did not result from NOAA Staff's local activities in the Monterey Bay Area. Staff held a series of community meetings over a two-week period and requested input from the community. I indicated previously the need to provide fiscal resources to more successfully accomplish this function in the future. One alternative to funding these activities in a synoptic fashion would be the establishment and support of a coastal data repository or center, dedicated to this purpose for sanctuary designations, as well as other environmental activities. I would be more than happy to provide additional information regarding the desirability, benefits, and costs of such a California regional data facility.

Thank you for the opportunity to provide testimony regarding the sanctuary designation process. I hope than you Subcommittee will find my comments helpful in improving and strengthening these most important activities of the National Marine Sanctuaries Program. Overall, I believe that National Marine Sanctuaries have been extremely successful in California by encouraging the public to better understand and appreciate the magnificent coastal resources that we possess in this state.

ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS
MAIL ADDRESS P O BOX 190 MONTEREY CALIFORNIA 93942 • TELEPHONE (408) 373-6116
OFFICE LOCATION 977 PACIFIC STREET

May 29, 1990

Thomas M. Foglietta, Chairman
Subcommittee on Oversight and Investigations
Committee on Merchant Marine Fisheries
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

Dear Mr. Foglietta:

I am writing on behalf of the Board of Directors of the Association of Monterey Bay Area Governments (AMBAG). AMBAG is the regional governmental association of cities and counties in the North Central Coast of California. I also serve as the Association's representative to Congressman Panetta's Monterey Bay Sanctuary Steering Committee, established in January, 1989 to provide input to the staff of the National Oceanic and Atmospheric Administration during the preparation of the management plan, environmental document and regulations for the proposed Monterey Bay National Marine Sanctuary.

The position of the AMBAG Board of Directors on the proposed Sanctuary is outlined in the enclosed copy of testimony given at the scoping meeting in Monterey on January 25, 1989. Key issues of the sanctuary proposed and concerns with the process are outlined below:

Designation Timeline
The disregard of the Congressional mandate that the designation process be completed by December 31, 1989 has greatly disturbed local officials. Public information and participation have virtually stopped due to the uncertainty and unpredictability of the process. We urgently request that action be taken to release the management plan for distribution and review to the public, and to provide for public hearings as mandated in order to complete the much-delayed Monterey Bay Marine Sanctuary designation.

Proper Activities Within the Sanctuary
We believe that it is counterproductive to designate, manage and regulate sanctuaries and at the same time allow for such uses as oil and gas exploration and development, seafloor bed mining, disposal of waste-containing articles and other such activities with predictable adverse impacts on the ecosystem of the sanctuary.

Boundaries
The Monterey Bay Sanctuary must protect the unique resources of the area as well as be of manageable size. At a minimum, the sanctuary must include coastal waters between Pigeon Point and Point Sur and extending seaward at least 14.5 miles. In addition, a buffer zone around the sanctuary must be established. It is incomprehensible to preserve an area and allow incompatible uses next to it when such areas are not physically separated. A buffer zone of at least twenty miles should be established around the entire marine sanctuary.

Intergovernmental Cooperation
Intergovernmental cooperation has been carried out through a steering committee of local officials and scientists established by Congressman Panetta. We found the staff of the National Oceanic and Atmospheric Administration (NOAA) assigned to this program to be both responsive and responsible. The formal intergovernmental interaction is restricted to the initial scoping meetings and the mandated public hearings when the draft plan, regulations and environmental documents are released. Additional interaction with the public at large for informational and educational purposes should be included in the process and funded by NOAA.

Thank you for the opportunity to provide our comments on the sanctuary designation process.

Sincerely,

Karin Strasser Kauffman
Association of Monterey Bay Area Governments

May 29, 1990

The Honorable Thomas M. Foglietta
Chairman, Subcommittee on
Oversight and Investigations
U. S. House of Representatives
Room 1334, Longworth House Office Building
Washington, DC 20515-6230

Dear Mr. Foglietta:

I appreciate the opportunity to comment on the designation process for the National Marine Sanctuary program. I have followed the process for the Monterey Bay sanctuary, and have concluded that the process under NOAA's administration and control is thorough, appropriate and responsive to local, regional and national considerations.

Where the designation process seems to stall is in the inter-agency and budgetary aspects of the program, and (as we are currently seeing) at the Executive level, given the options the Chief Executive apparently has the ability and inclination to exercise.

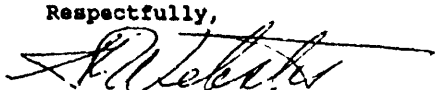
As I am not a student of government, I'm not in a position to offer suggestions for a better system. Checks and balances are necessary, and the sanctuary program does not, and should not occupy as critical a place in the government's priorities as many others. On the other hand, it certainly deserves more serious attention than many programs that are funded at much higher levels (subsidies for tobacco growers, subsidies for agricultural users of Federal water projects, etc.). Somehow the government needs to get its priorities in order, and intelligent management of sensitive and unique (and even just representative) natural areas should be well up on the list. Any energy policy worth its salt will have to address environmental concerns, and there should be no reason why the sanctuary program and an intelligent and balanced energy policy cannot be mutually compatible.

Would we drill for oil near Old Faithful, or under Yosemite Valley? Certainly we would develop alternatives before that became necessary. Indeed, Congress should provide legislative relief from energy development for all environmentally sensitive areas, and create an economic and legislative climate that will encourage research into alternatives to petroleum. A great deal of emphasis should be placed here before we come to the conclusion that oil from sensitive areas is really necessary (which, of course, it is not - we are going to run out of it at some point, so why not develop the alternatives before we squeeze every last drop out of the crust?).

Sanctuary size is critical in this instance. From Ano Nuevo Island in the north to the Big Sur coast to the south, the proposed sanctuary contains natural and scenic resources that are not duplicated elsewhere in the world. These resources have resulted in the placement of no fewer than eight marine research institutions on the shores of Monterey Bay; one of them the oldest marine station on the west coast of the U.S. This area has the potential to become a truly significant center of marine and coastal research and education. For this reason, as well as for the long term, intelligent management of its resources, the largest boundary alternative should be selected. Effective management of the system requires an inclusive, not a piecemeal, set of boundaries. "Manageability" requires inclusion of the relevant pieces of the system. Leave some of them out, and the system becomes too small and artificial to be manageable.

In sum, I believe the designation process is adequate, responsive and well-managed. It is the priorities of government at the higher levels that need to be more clearly focussed on the need to control human intervention, and to manage large scale natural systems in ways that conserve natural resources and minimize the chance of large-scale perturbations. How this is accomplished requires the determination and expertise of the legislators. I wish you all Godspeed.

Respectfully,



Steven K. Webster, Ph.D.
Director of Education
Monterey Bay Aquarium